

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ILA LAFRENTZ, et al.	§
	§
Plaintiffs,	§
	§
v.	§ CIVIL ACTION NO.: 4:18-cv-04229
	§
3M COMPANY, et al.	§
	§
Defendants.	§
	§

**DEFENDANT 3M COMPANY'S EXPERT WITNESS DISCLOSURES
UNDER FEDERAL RULE OF CIVIL PROCEDURE 26(a)**

Defendant 3M Company (“3M”) submits the following expert witness disclosures for expert witnesses it may use at trial.

PRELIMINARY STATEMENT

These disclosures are based upon information currently available to 3M. This is a lawsuit in which Plaintiffs allege that Plaintiff James B. LaFrentz was injured as a result of exposure to asbestos. Based on information known to date, the 3M 8710 respirator appears to be the only 3M product allegedly at issue in this matter. Discovery is still continuing in this action. This disclosure by 3M is based on the discovery that has been completed to date. 3M specifically reserves the right to amend, supplement or modify these disclosures at the conclusion of discovery in this case and as more information becomes known. Subject to the reservations stated herein, and 3M’s right to supplement this disclosure, 3M discloses below its experts who may be called to testify at the time of trial.

3M COMPANY'S TESTIFYING EXPERT WITNESSES

Erik Johnson, M.P.H, C.I.H., C.S.P
3M Center Building, 235-2E-91
St. Paul, Minnesota 55144
(651) 737-2713

Mr. Johnson, who is a Certified Industrial Hygienist, will testify concerning various subject areas, including the design and utility of respiratory protection equipment manufactured by 3M which allegedly was worn by Plaintiff in this case. Mr. Johnson will also provide opinion testimony concerning the applicable regulations and industry standards relating to respiratory protection equipment. Further, Mr. Johnson may give opinion testimony addressing OSHA regulations and industry standards that apply to employers in this litigation.

Mr. Johnson has been employed by 3M for over 25 years. As a result of his experience and employment with 3M, Mr. Johnson has knowledge concerning the design and utility of 3M respiratory protection equipment. He will testify that 3M respiratory protection equipment is safe and effective for the intended purpose of the product. Mr. Johnson is familiar with the types of laboratory testing conducted by 3M for respiratory protection equipment, and will testify concerning the laboratory testing, findings of such testing, significance of the testing results, and that the testing conducted by 3M was appropriate and adequate. His testimony may include information concerning the materials and component parts utilized in the manufacture of 3M respiratory protection equipment. He may provide opinion testimony relating to the filtration capability of 3M respiratory protection equipment. Mr. Johnson may also testify as to the testing performed under conditions of humidity and temperature.

Mr. Johnson's testimony will include the subject areas of the testing of respirators by NIOSH and the United States Bureau of Mines (USBM). His testimony may also include

various provisions of 30 CFR 11 and/or 42 CFR 84, including the approval process, extensions of approval, approval labels and markings, quality control plans and other relevant regulatory provisions. He may explain 30 CFR 11 and/or 42 CFR 84 and other governmental regulations that apply to the testing and certification of respirators, including the laboratory testing conducted by NIOSH concerning filtration and pressure drop. His testimony may include an explanation of how the tests provided under 30 CFR 11 and/or 42 CFR 84 are conducted, the test challenge utilized, and the fact that the NIOSH testing and other testing establish that the 3M's NIOSH approved respiratory protection equipment provides appropriate respiratory protection against various dusts, including asbestos, under those circumstances in which the 3M respiratory protection equipment was appropriately selected and used. Mr. Johnson may testify that the laboratory testing conducted by NIOSH under the criteria of 30 CFR 11 and/or 42 CFR 84, although valid for certification, would not represent the conditions or concentrations that would be expected in a job site involving dust exposures where the maintenance free respirators would be appropriately selected and used. His testimony may also address the test conditions for certification under 30 CFR 11 and/or 42 CFR 84, including the loading of the respirator being tested and the resulting airflow resistance for final inhalation and exhalation do not represent actual workplace conditions where the 3M respiratory protection equipment would be appropriately selected and worn.

Mr. Johnson may testify that the NIOSH laboratory testing, including the certification testing was performed in order to assess the potential breathing resistance of the tested respirator, and that the ease with which a worker breathes through any respirator potentially impacts upon the comfort of the person wearing the respirator. Mr. Johnson may testify that an employee, who has been properly trained by the employer, will discard a maintenance free respirator if the

respirator is damaged or if breathing resistance is excessive. Mr. Johnson may testify that an increase in the breathing resistance of a respirator does not affect the health of a worker. Mr. Johnson may explain the results of testing of 3M respiratory protection equipment and the significance of such testing of any alleged exposure experienced by Plaintiff in this case. In that regard, Mr. Johnson will testify regarding laboratory or workplace testing of 3M respiratory protection equipment relating to asbestos or other contaminants conducted by 3M, Los Alamos Scientific Laboratory, McGill University, the Institute of Occupational Medicine and others. Mr. Johnson may offer testimony that the initial certification of certain 3M respiratory protection equipment was for respiratory protection against pneumoconiosis and fibrosis-producing dusts, including, but not limited to, asbestos.

Mr. Johnson's testimony may include an explanation of Permissible Exposure Levels (PELs) and Threshold Limit Values (TLVs). He may offer testimony regarding the acceptance of PELs and TLVs by industrial hygienists, certified safety professionals and others. He will also explain the relationship between PELs or TLVs and assigned protection factors for respirators,. His testimony may also relate to the subject areas of particle technology, aerosol physics, particle measurement, particle size distribution, inhalation, exhalation, breathing resistance, filtration, pressure drop and the potential deposition of particle into the lung.

Mr. Johnson has personally performed work in the laboratory and in the field concerning the fit of various types of 3M respiratory protection equipment. He will testify regarding workplace protection factor testing performed by 3M, DuPont, Duracell and others. He may testify on the subjects of protection factors, wear factors, and other related topics. Mr. Johnson may offer opinion testimony that the appropriate protection factors that should be assigned to particular 3M respiratory protection equipment. Mr. Johnson may testify relative to his

experience and knowledge relating to the evolution of the design, use and acceptance of respirators by workers, the methods used to determine the fit of half-facepiece dust respirators and other related subject areas. His testimony may include at all times, the design of the 3M respiratory protection equipment allowed the employer and/or employee to properly fit the respirator and to test the facepiece-to-face seal of the 3M respiratory protection equipment. Mr. Johnson may offer testimony relating to the capability of the 3M respiratory protection equipment to fit employees, and will include within the subject of the fit, fit testing performed by 3M and others, which establishes that the 3M respiratory protection equipment provide an appropriate fit. He may testify that the workplace protection factor studies conducted by 3M and others establish that, in the workplace, the protection provided by a properly fitted 3M respirator will equal or exceed the assigned protection factor for such products. In addition, Mr. Johnson may testify regarding the published studies by OSHA designating the assigned protection factors for half-facepiece particulate respirators. Mr. Johnson may also express the opinion that qualitative fit testing using a validated fit test protocol with test challenges such as saccharin and other validated test challenges represents an appropriate method for an employer to assess the fit of a respirator selected for use by an employee. In addition, he may offer testimony addressing 3M's research, development and testing relating to respirators that 3M introduced to provide employers an opportunity to perform quantitative fit testing. Mr. Johnson will provide testimony concerning 3M's research, development and testing of saccharin as an acceptable fit test challenge and the availability of the 3M Qualitative Face Fit Kit.

Mr. Johnson has reviewed various packages and advertisements relating to 3M respiratory protection equipment. He will testify that the packaging and advertising relating to 3M respiratory protection equipment was reasonable and appropriate at the time of publication.

He will explain that in addition to the packaging, 3M made available to employers information, literature and training concerning the respiratory protection equipment manufactured by 3M. His testimony will include specific reference to additional materials and communications that would have been available upon request by employers in this litigation. He will address the lack of training provided by Plaintiff's employers concerning the use of respiratory protection equipment and the hazards of asbestos.

As a Certified Industrial Hygienist, Mr. Johnson has knowledge concerning the OSHA regulations and industry standards that apply to the responsibilities and obligations of the employers in this litigation. He is also knowledgeable concerning OSHA Directives relating to 29 CFR 1910.1001 and 29 CFR 1910.134 and the subject of respiratory protection. His testimony may include an explanation of the controlling OSHA regulations and industry standards, such as ANSI Z88.2, 1969, 1980 and 1992, and the 29 CFR 1910.134 and the requirement for written respiratory protection programs. Mr. Johnson will provide opinion testimony that based upon accepted industrial hygiene principles, workplace safety practices, and applicable OSHA regulations, the employer has the responsibility to inform and advise employees exposed to hazardous dusts of the potential health consequences of exposure and to communicate other relevant information to employees. Mr. Johnson may testify concerning the violation by employers in this litigation of the controlling OSHA regulations, industry standards, industrial hygiene practices and accepted workplace practices, and the employee's responsibilities. Mr. Johnson will testify relating to applicable OSHA regulations concerning asbestos. He may also testify concerning Plaintiff's asbestos exposure as well as Plaintiff's use of respiratory protective equipment.

3M reserves the right to offer Mr. Johnson's expert opinion testimony concerning any

issue raised by other experts or any other party in this litigation, provided these opinions are within his fields of expertise. 3M reserves the right to offer Mr. Johnson's expert opinion testimony regarding any other 3M protective equipment which may be put at issue by plaintiff.

Mr. Johnson's expert report, list of prior testimony and CV are attached as Exhibit A and are incorporated herein.

**Dennis J. Seal, Ph.D., P.E.
Seal Design and Engineering, Inc.
Human Factors and Product Safety
5423 Vanderbilt Avenue
Dallas, Texas 75206
(214) 823-9364**

Dr. Seal may testify in the subject areas of warnings, human factors product safety engineering and employer responsibility. He may provide opinion testimony concerning the subject areas of packaging, advertisements, sales literature, training literature and other information relating to 3M respiratory protection equipment.

Dr. Seal has reviewed various documents and materials concerning 3M respiratory protection equipment and is familiar with the literature and other information which was made available by 3M to distributors and potential customers. He may explain that in addition to the packaging for the 3M respiratory protection equipment, 3M made available to employers information, user guides, literature and training concerning respiratory protection equipment manufactured by 3M. His testimony may include specific reference to additional materials and communications which would have been available upon request by employers in this litigation. Dr. Seal will testify concerning applicable OSHA regulations, including the 29 CFR 1910.134, the OSHA Hazard Communication ALT, and industry standards which apply to the conduct of employers in this litigation. In that regard, he may offer opinion testimony addressing the

function and purpose of information provided by the manufacturers of products which are to be used in a regulated work environment.

Dr. Seal may testify that the information that accompanied 3M respiratory protection equipment by way of labeling or packaging represented reasonable and appropriate information for the use and limitations of such products. He may further offer opinion testimony that the packaging, advertisements, sales literature, training literature and materials provided by 3M relating to 3M respiratory protection equipment were reasonable and provided appropriate information. He may testify that, as to Plaintiff, the most effective means or method of providing warnings or instructions to Plaintiff would be the communication of that information from Plaintiff's employers. He may explain that the applicable OSHA regulations provide that, for purposes of training, instruction, supervision and warnings, the employer, and not the manufacturer of products, such as 3M, is in the best position to effectively communicate with employees. Dr. Seal may offer opinion testimony that based upon accepted industrial hygiene principles, workplace safety practices and applicable OSHA regulations, the employer has the responsibility to inform and advise employees exposed to asbestos or other hazardous dusts of the potential health consequences of exposure and to communicate other relevant information to employees.

Dr. Seal may testify that, in his opinion, 3M respiratory protection equipment presents no significant health hazard. Dr. Seal may also testify that a warning, as defined by ANSI Z535.4, is not necessary for 3M respiratory protection equipment. Finally, Dr. Seal may express the opinion that the placement or inclusion of additional information on the packaging of 3M respiratory protection equipment would not modify or alter the conduct of Plaintiff in this case.

With respect to other 3M respiratory protection equipment that Plaintiff allegedly used, if any, Dr. Seal may testify as to any of the areas of testimony set forth above, including as to other 3M respiratory protection equipment, the subject of warnings, ANSI Z535.4, and the employer's responsibility.

3M reserves the right to offer Dr. Seal's expert opinion testimony concerning any issue raised by other experts or any other party in this litigation, provided these opinions are within his fields of expertise.

Dr. Seal's expert report, list of prior testimony and CV are attached as Exhibit B and are incorporated herein.

Philip D. Eitzman, Ph.D.
3M OH&ESD
3M Center
Building 235-2B-86
St. Paul, Minnesota 55144
(651) 733-3483

Dr. Eitzman is an employee of 3M. He received a B.S. Ch.E. in Chemical Engineering from the University of Florida in 1986 and his Ph.D. in Chemical Engineering from the University of Minnesota in 1994. Dr. Eitzman began his employment at 3M in 1991 in the Bioapplications Laboratory. He joined the Occupational Health and Environmental Safety Division, which manufactures and sells 3M's respiratory protection equipment, in 1994, where he was a Maintenance-Free Respirator Laboratory Group Leader. Dr. Eitzman's work has included the development of filter media for respiratory protection equipment, as well as the development of disposable respirators, respirator design, manufacturing equipment design and quality control. In addition, Dr. Eitzman is the holder of numerous patents pertaining to respirator filter media. Because Dr. Eitzman is an employee of 3M Company, there is no charge for his testimony.

Dr. Eitzman's opinions are based on his education, training, experience and his review of various 3M documents and data, the testimony and opinions of various 3M lay and expert witnesses, scientific publications, texts and studies, the pleadings and other documents and evidence in this case. Dr. Eitzman has consulted various other sources concerning the matters at issue in this action. Dr. Eitzman may be asked to review and respond to any testimony and documents produced by the parties in this action, and testimony of other witnesses, including lay or expert witnesses, whose testimony or information is not reasonably available by the time of his deposition.

Dr. Eitzman has reviewed, evaluated and analyzed the testing conducted by 3M for 3M respiratory protection equipment and if called, he may testify concerning that testing, including testing performed for purposes of quality control and quality assurance, the results of such testing, and his opinions that the testing conducted by 3M, and the decisions based thereon were appropriate. In addition, Dr. Eitzman will testify about the filtration capability of 3M respiratory protection equipment. Dr. Eitzman may testify regarding laboratory and workplace testing on 3M respiratory protection equipment relating to asbestos or other dusts conducted by 3M, Los Alamos Scientific Laboratory, McGill University, DuPont, and the Institute of Occupational Medicine and others.

Dr. Eitzman is familiar with the materials and process used by 3M in the manufacture of the filter media and other components of 3M respiratory protection equipment. His experience includes knowledge of the various studies and tests related to 3M respiratory protection, including the testing of respiratory protection equipment under the criteria of 30 CFR 11 and/or 42 CFR 84 and testing performed for purposes of quality control, quality assurance, or otherwise. Dr. Eitzman may testify concerning the testing and certification of respiratory protection

equipment, including the laboratory testing conducted by NIOSH concerning filtration and pressure drop. He may testify that in 1972, the government certified certain 3M respiratory protection equipment for respiratory protection against pneumoconiosis- and fibrosis- producing dusts, including asbestos. He may testify that at all relevant times 3M respiratory protection equipment maintained its certification with NIOSH. He may also testify that the laboratory testing conducted by NIOSH under the criteria of 30 CFR 11 and/or 42 CFR 84 with respect to pressure drop was performed in order to assess the potential breathing resistance of the tested respirator, and that the ease with which a worker breathes through any respirator potentially affects the respirator user's comfort and acceptance of the respirator by the user. He may further testify that the breathing resistance of respiratory protection equipment is not an issue of health for the worker. He may offer an opinion concerning the results of studies and tests performed on 3M respiratory protection equipment and any other product identified, under the testing criteria of 30 CFR 11 and/or 42 CFR 84, and with other testing performed by 3M in the laboratory or elsewhere, including the testing with sodium chloride and dioctyl phthalate. Dr. Eitzman is also familiar with tests performed relating 3M respiratory protection equipment under conditions of extreme and prolonged humidity and high temperature, such conditions being more extreme than a workplace setting.

Dr. Eitzman may provide testimony addressing the filtration efficiency of any 3M respiratory protection equipment relative to particle size distribution of respirable dust. He may also testify generally relating to the capture mechanisms of the respiratory system. Dr. Eitzman may testify that the established permissible exposure limits (PELs) and threshold limit values (TLVs) are recognized and accepted by the Occupational Health community as a means for assessing potentially hazardous exposures.

Dr. Eitzman may testify that based upon his education, experience, training or knowledge of testing relating to 3M respiratory protection equipment the respirator, as tested and certified by NIOSH, could be used to provide respiratory protection up to 10x PEL. He may testify that workplace protection factor studies conducted by 3M and others establish that, in the workplace, the protection provided by a properly fitted 3M respiratory protection equipment will equal or exceed the assigned protection factor of 10 for half-facepiece respirators. He may also testify about the filter media used by 3M for their respiratory protection equipment and that the filter media provided a safe and effective means of filtration. His testimony may also relate to the subject areas of particle technology, aerosol physics, particle measurement, particle size distribution, inhalation and exhalation, breathing resistance, filtration and the potential deposition of particles into the lung.

Dr. Eitzman may provide opinion testimony that the testing and certification of 3M respiratory protection equipment and any other product identified, pursuant to 30 CFR 11 and/or 42 CFR 84, represented a scientifically valid and acceptable test for determining the filtration efficiency of a respirator. He may testify that the testing conducted under the criteria of 30 CFR 11 and/or 42 CFR 84 was an equally valid test of the filter efficiency of a respirators as dusts performed using other test challenge agents, such as sodium chloride or dioctyl phthalate.

Dr. Eitzman may testify relating to the fit of 3M respiratory protection equipment. He may testify concerning how fit testing performed by 3M and others establishes that 3M respiratory protection equipment will provide a worker with the appropriate fit of the respirator. He may testify that the design of 3M respiratory protection equipment allowed the employer/employee to properly fit the respirator and test the facepiece-to-face seal of such respiratory protection equipment. If called, Dr. Eitzman may also provide opinion testimony that

typical workplace conditions of high humidity or temperature will not adversely affect the filter efficiency of 3M respiratory protection equipment.

3M reserves the right to offer Dr. Eitzman's expert opinion testimony concerning any issue raised by other experts or any other party in this litigation, provided these opinions are within his fields of expertise. 3M reserves the right to offer Dr. Eitzman's expert opinion testimony regarding any other 3M protective equipment which may be put at issue by plaintiff.

3M reserves the right to offer Dr. Eitzman's expert opinion testimony concerning any issue raised by other experts or any other party in this litigation, provided these opinions are within his fields of expertise.

Dr. Eitzman's expert report, list of prior testimony and CV are attached as Exhibit C and are incorporated herein.

Dr. Thomas M. Wheeler
Baylor College of Medicine
Department of Pathology & Immunology
One Baylor Plaza, Room T203
Houston, TX 77030
(713) 798-4664

Dr. Wheeler is a board certified pathologist. Dr. Wheeler may be called to testify concerning asbestos related diseases and the effects of exposure to various asbestos containing products upon persons in occupational settings. He may further testify regarding the epidemiology of asbestos diseases, the criteria for diagnosis of asbestos related disease, as well as the existence of a dose response relationship between exposure to asbestos and asbestos related diseases.

Dr. Wheeler may also testify regarding the existence or non-existence of any alleged asbestos related disease in the Plaintiff, including but not limited to pleural changes,

asbestosis, mesothelioma, and dust respirability, where applicable. He will also testify on general medicine issues regarding asbestos related diseases including, but not limited to, lung physiology, lung function, lung defense mechanisms and the mechanisms by which asbestos fibers do or do not cause a particular disease.

Dr. Wheeler may also testify regarding the biological effects of asbestos and the evidence of the relationship between the inhalation of various forms of asbestos fibers and asbestos-related disease and the factors that go onto evaluating whether there is any medical risk from asbestos-containing products. Dr. Wheeler may also be asked to respond to the testimony of certain witnesses offered at the time of trial including, but not limited to, testimony from plaintiff's experts regarding the alleged hazards of exposure to particular products and their alleged propensity to release fibers.

Dr. Wheeler's testimony will be based on one or more of the following: his training, experience, education, publications and review of the medical, governmental and scientific literature and various air sampling studies, work facility inspections and documents, where applicable, as well as review of medical records, chest films, and all pathology materials. Dr. Wheeler may rely upon the exhibits, testing and testimony otherwise disclosed by this defendant in this case. Dr. Wheeler may review Plaintiff's and coworker's deposition testimony given in this case and rely upon them as a basis for his opinions. He may also provide testimony consistent with the disclosure of any other expert disclosed by this defendant or any other party to this case. As this defendant becomes aware of additional facts and the opinions of plaintiff's experts, Dr. Wheeler will testify as to the opinions suggested by the additional facts or in response to the opinions of plaintiff's experts.

Dr. Wheeler's CV is attached as Exhibit D and is incorporated herein.

Jennifer Sahmel, M.P.H., C.I.H., C.S.P., F.A.I.H.A.
Insight Risk, LLC
1035 Pearl Street
Boulder, CO 80302

Ms. Sahmel is Certified Industrial Hygienist (CIH) [American Board of Industrial Hygiene (ABIH)] and a Certified Safety Professional (CSP) [Board of Certified Safety Professionals (BCSP)] with 20 years of experience in human health exposure, risk assessment, and workplace health and safety, she is also a Fellow of the American Industrial Hygiene Association (FAIHA). She has experience in exposure assessment methodologies, the history and state of the science for industrial hygiene over time, health risk decision making, exposure monitoring, and safety management systems, and has conducted chemical-specific exposure assessments for a wide range of substances.

Ms. Sahmel will testify at trial regarding occupational exposures of Plaintiff as described by Plaintiff, Plaintiff's co-workers, and other alleged exposure witnesses and whether such exposures could be considered as creating a scientifically significant amount of risk for the development of an asbestos-related disease, including the manner in which risk assessment properly may be performed for individuals in various trades or occupations, and a risk assessment for the plaintiffs in these cases.

Ms. Sahmel may testify regarding the recognition, evaluation and control of health and safety hazards, as well as the accepted standards, industrial hygiene practices and workplace safety practices during the years of Plaintiff's employment. She may further testify as to the principles of industrial hygiene and the factors that are important to industrial hygiene studies, the manner in which experts use industrial hygiene data and how the data should be interpreted in specific cases, and the manner in which industrial hygiene data should be properly considered in evaluating exposures.

Ms. Sahmel may further testify as to the state of the art of industrial hygiene during the times relevant to Plaintiff's alleged exposures. State of the art testimony may including whether it was recognized that a risk of development of asbestos-related disease was recognized for persons such as Plaintiff and the appropriate steps to guard against that recognized risk, if any.

She may further testify as to the development and utility of methodologies identifying and measuring asbestos in air, dust and products, and the process of setting threshold limit values ("TLVs"), the OSHA PELS, and other levels for asbestos exposure. This testimony will also include the historical standards and recommendations from both governmental and non-governmental agencies concerning workplace levels of asbestos exposure.

Ms. Sahmel may further testify as to the relationship between scientific knowledge and the development of public policy standards relating to asbestos exposure, and all aspects of government regulation of asbestos exposure. In addition, she may testify to the development of knowledge regarding the dose-response relationship between exposure to asbestos and disease, and other related matters.

She may testify regarding expert testimony or opinions offered on behalf of Plaintiff, including but not limited to testimony, if any, regarding the evolution of knowledge of the effects of asbestos exposure, standards and regulations applicable to asbestos exposure, and testing done by or on behalf of Plaintiff. She may also testify regarding the asbestos exposure described by Plaintiff, Plaintiff's co-workers, and other alleged exposure witnesses in this case.

Ms. Sahmel may further testify as to the different types of asbestos fiber, their physical and chemical composition, characteristics and uses in various products as well as their potential to cause disease. She may also testify to the exposures in this case, as described by Plaintiff,

Plaintiff's co-workers, and other alleged exposure witnesses in this case, and whether the alleged exposures created a significant risk of asbestos-related disease.

Ms. Sahmel is also expected to testify and opine that Plaintiff's employers were responsible to provide Mr. Mullins with a safe and healthful workplace, and to follow applicable workplace safety regulations; Mr. Mullins' employers were responsible to understand and know the concentration of hazardous dust in the workplace and bring the workers' exposure to dust, such as asbestos, below the PEL; Mr. Mullins' employers were responsible to know the concentration of the dust in the workplace and to select the proper safety equipment including respirators used in his workplace operation.

She may further testify as to the proper and accepted protocols for analysis of airborne samples for fiber release from asbestos-containing products, the potential for various products to release asbestos fibers, and the government and industry standards regarding the same.

In formulating her opinions, Ms. Sahmel may rely upon both unpublished and published studies regarding the manufacturing, handling, installation, and removal of asbestos-containing products and materials.

Ms. Sahmel's expert report, list of prior testimony and CV are attached as Exhibit E and are incorporated herein.

Expert Witnesses Designated by Co-Defendant General Dynamics Corporation

3M cross-designates and incorporates by reference the expert witness disclosures, expert reports, CVs and list of prior testimony of Co-Defendant General Dynamics Corporation for the following witnesses:

Tim D. Oury, M.D.
Department of Pathology
University of Pittsburgh
S-785 Scaife Hall

**3550 Terrace Street
Pittsburgh, Pennsylvania 15261**

**C. Alan Brown, M.D.
Cottage Health
400 West Pueblo Street
Santa Barbara, California 93105**

Respectfully Submitted,

/s/ Michele E. Taylor

William Book
Southern District Bar No. 1761
Michele E. Taylor
Southern District Bar No. 14240

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CERTIFICATE OF SERVICE

I hereby certify that on this 14th day of August, 2020, I electronically filed the foregoing Defendant 3M Company's Expert Witness Disclosures Under Federal Rule of Civil Procedure 26(a) with the Clerk of the Court using the CM/ECF system, and I hereby certify that I have thereby electronically served this document upon all counsel of record who are registered with the Court's CM/ECF system.

BY: */s/ Michele E. Taylor*

Michele E. Taylor
Counsel for Defendant, 3M Company

Exhibit A

REPORT OF ERIK JOHNSON

Ila LaFrentz, Jim LaFrentz, Katherine Porterfield and William LaFrentz, Individually and as Representatives of the Estate of James B. LaFrentz vs. 3M Company, et al.

This report includes my opinions relating to the case Ila LaFrentz, Jim LaFrentz, Katherine Porterfield and William LaFrentz, Individually and as Representatives of the Estate of James B. LaFrentz vs. 3M Company, et al. My opinions are based on my education, years of experience in industrial hygiene, and my work with personal protective equipment including respirators. This includes various OSHA standards such as 29 CFR 1910.134 (respiratory protection), 29 CFR 1910.100 (asbestos), 29 CFR 1910.1025 (lead), proceedings and final rule on Assigned Protection Factors, etc.; NIOSH standards 30 CFR 11 and 42 CFR 84 (respirators); and ANSI Z88.2 (respirators). I have also reviewed the 3M 8500 and 8710 advertising, packaging, user instructions, laboratory testing, qualitative and quantitative fit testing, workplace testing, and other related documents. In addition, this report is based on my review of the following documents:

1. *Deposition transcript of James LaFrentz, taken 11/14/2018;*
2. *Deposition transcript of James LaFrentz, taken 11/15/2018;*
3. *Exhibits to the depositions of James LaFrentz;*
4. *Plaintiffs' Third Supplemental Rule 26(A) Disclosure;*
5. *Expert Report of Darell Bevis;*
6. *Expert Report of Ken Garza;*
7. *Plaintiffs' Second Amended Complaint*

I have a Bachelor's degree in physics from St. Olaf College in Northfield, MN (1991). I worked as an intern and tech aide in the 3M Occupational Health and Environmental Safety Division assembling and testing prototype respirators and filter material (1991-1994). My Master's degree is in Industrial Hygiene from the University of Minnesota (1994). I have worked as a tech service representative in OH&ESD (now 3M Personal Safety Division) from 1994 to the present. In that role I have been responsible for disposable, reusable, powered and supplied air respirators; respirator selection guides and software programs; diffusion and electronic gas/vapor monitors; technical writing and training; and Asia/Pacific region for most of the OH&ESD/PSD products. I am a certified industrial hygienist (1994) and certified safety professional (2017).

My testimony in this case may include a variety subjects including the design, development, testing and effectiveness of respirators manufactured by 3M and allegedly worn by Mr. LaFrentz. It is my opinion that 3M respirators including the 3M 8710 are safe and effective when properly selected, fitted, worn, maintained/disposed, etc. according to relevant standards, regulations and industrial hygiene principles.

Referring to the 8710 as a "paper mask" is incorrect. It consists of an inner shell, a non-woven polypropylene filter media and a coverweb. None of the three layers are paper.

The 8710 was developed in the late 1960s to early 1970s. 3M worked in conjunction with Dr. Irving Selikoff (Mount Sinai School of Medicine), the International Association of Heat and Frost Insulators and Asbestos Workers and others to develop disposable particulate respirators that were easier to breathe through and more consistently worn than elastomeric respirators.

The 8710 was approved May 24, 1972 by the US Bureau of Mines as a single use dust respirator under 30 CFR 11. It was approved for respiratory protection against pneumoconiosis and fibrosis producing dusts, including but not limited to aluminum, asbestos, coal, flour, iron ore or free silica (TC-21C-132). The approval was later extended by the US National Institute of Occupational Safety and Health (NIOSH) to also include dusts and mists not having an exposure limit less than 0.05 mg/m³. 3M continually maintained the NIOSH approval on the 8710 through 1998, when the product was discontinued due to revised NIOSH regulations 42 CFR 84.

Extensive testing has been done over the years to demonstrate that the 8710 can filter various types of particles, including submicron aerosols. Laboratory testing has been done against silica dust, asbestos fibers, sodium chloride, DOP and lead dust. 3M testing showed that the 8710 had high filtration efficiency against silica dust in both the unloaded (new) and loaded state. Testing done at the University of Minnesota demonstrated the ability of the 8710 to filter particles of various sizes (including particles <0.1 µm) and at different flow rates. The U of MN authors also noted that the 8710 had both lower penetration and breathing resistance than a similar respirator from a different manufacturer.

The mass median diameter of particle distributions in industrial workplaces is predominantly larger than the aerosols used to test respirators. Thus, filtration efficiency in workplaces would be higher than seen in most laboratory testing. Put another way, most occupational exposure limits for dusts are expressed as mass per volume of air (mg/m³). Larger particles have more mass and are easier to filter. Therefore, particulate respirators such as the 8710 filter workplace aerosols to help reduce exposure commensurate with relevant occupational exposure limits. Occupational asbestos exposure is measured as fibers per cubic centimeter of air (f/cc), but only fibers longer than 5 µm are counted. These sized fibers are efficiently filtered by particulate respirators such as the 8710.

I expect to testify that although fit test terminology and methods have changed over time, there has always been a fit test method for 8710 users that met relevant standards and regulations. In the 1960s and 70s, none of the respirator fit test methods were validated similar to today's practices. In the ANSI Z88.2-1969 standard for respiratory protection, users were advised to check the fit each time the respirator is put on by following the manufacturer's instructions and then lists examples such as the positive pressure and negative pressure test.

The 8710 packaging contained information, instructions, and warnings that were appropriate for their time. Similar to the positive pressure test listed above, the 8710 packaging contained instructions on how to put the respirator on, mold the noseclip, adjust the straps, check the fit by exhaling vigorously and readjusting if leaks were detected. In 1976 and 1978, the US National Institute for Occupational Safety and Health (NIOSH) listed negative and positive pressure tests as qualitative fit test methods.

In the ANSI Z88.2-1980 standard for respiratory protection, optional qualitative fit tests included using a stream of coal dust, talcum powder or fluorescein liquid particles. One validation of the donning and fit may be seen in 8710 prototypes worn in a coal dust test chamber with no visible leakage. In the 1980s 3M developed a "large particle" quantitative fit test to allow quantitative fit testing of dust/mist and

dust/fume/mist respirators. This advancement in technology led to research indicating that the positive pressure fit check used with disposable respirators such as the 8710 was effective in detecting poor fits.

In section (e)(5) of the original OSHA standard for respiratory protection 29 CFR 1910.134, it is stated that "Training shall provide the men an opportunity to handle the respirator, have it fitted properly, test its face-piece-to-face seal, wear it in normal air for a long familiarity period, and, finally to wear it in a test atmosphere." But at that time the purpose of the "test atmosphere" was not defined. Nor were specific fit test methods listed. In 1980 OSHA issued a "Federal Program Change" memo indicating that wearing respirators in a test atmosphere was for assessing respirator fit using recognized qualitative or quantitative fit methods. About the same time, the ANSI Z88.2-1980 standard and subsequent revisions began to define qualitative fit tests as using a test agent that is filtered by the respirator being tested.

3M developed the saccharin aerosol fit test method circa 1980. It was designed for fit testing various types of particulate respirators including the dust/mist, dust/mist/fume and HEPA classes. The saccharin method was validated by Los Alamos National Laboratory, Lawrence Livermore Laboratory, DuPont and 3M. It was later included by OSHA in standards such for lead and the updated standard for respiratory protection. Later, 3M developed the Bitrex™ aerosol qualitative fit method which was also included in the revised OSHA standard for respiratory protection.

Laboratory based "respiratory protection factors" have done on various types of respirators worn by people exposed to aerosols of various types and sizes. However, these tests may not be applicable to workplace performance as will be described.

Ed Hyatt (Los Alamos National Labs) used submicron aerosols, subjects of different facial sizes, and exercises of 1) normal breathing, 2) deep breathing, 3) turning head slowly form side to side, 4) moving head up and down and 5) talking. Respirators tested were described in his report as approved under the earlier Bureau of Mines Schedule 21B, which would not include the 3M 8710 (approved under 21C). However, in separate report, Hyatt identifies the 8710 as respirator "I" in table D. Based on his data, Hyatt assigned single use dust respirators a protection factor of 5 (assuming they are used in a respirator program that meets the OSHA standard 1910.134). However, Hyatt states that if also tested against asbestos or cotton dust, these respirators could be assigned a 10 for those particulates. Because the 8710 was tested against asbestos, it is appropriate to give it a protection factor of 10 when used against asbestos according to Hyatt.

It should be noted that Hyatt used particles with a mass median aerodynamic diameter (MMAD) of about 0.6 μm . This is about 1/6 of the size of the silica dust test used for respirator certification: 0.4-0.6 μm , count based. (For the same aerosol size distribution, mass based diameters are larger than count based diameters.) Therefore, much of the penetration observed would have been from filter penetration instead of face seal leakage. Most workplace aerosols are much larger, and therefore the protection factors in workplaces would be higher. 3M repeated Hyatt's work using modified versions of the 8710 with higher filter efficiency to minimize filter penetration (similar to what would be seen in workplaces) and saw protection factors of 18-52.

In contrast to laboratory testing, workplace protection factor (WPF) testing measures performance in the workplace for of a respirator that has been properly selected, fitted, used and maintained. These has been much discussion on the proper protocol including worksite selection, sampling procedure, data

analysis, etc. WPF testing on 8710 has included silica in a foundry, asbestos removal, asbestos exposure in manufacture of truck brakes, an alkaline battery plant, a steel mill and a lead battery plant.

Additionally, Thomas Nelson reviewed data from several workplace protection factor studies for various half mask respirators and concluded that disposable dust/mist respirators (including the 8710) had protection factors with a geometric mean of 224 and a lower 5th percentile of 22.4. He also concluded that there was no significant difference in performance between reusable and disposable half mask respirators.

I expect to testify regarding applicable regulations related to asbestos. In 1971 (prior to the introduction of the 8710), OSHA allowed negative pressure reusable or single use respirators for asbestos exposures up to 5 times the exposure limit. In 1972, OSHA stated that these same respirators, which included the 8710, could be used for asbestos exposure up to 10 times the exposure limit. In 1986 OSHA revised the asbestos standard and required as a minimum half facepiece respirators with high efficiency filters. However, in the preamble to the standard, "OSHA notes that the testing of respirator effectiveness for asbestos (the LASL and DuPont studies) suggest that certain respirators within a class appear to perform better than other respirators within the same class. For example, the 3M 8710 appears to provide better protection than the other respirators in its class as a single-use respirator."

The ANSI Z88.2-1969 standard for respiratory protection did not contain numerical protection factors, but rather general guidance for respirator selection. The 1980 and 1992 versions of the ANSI Z88.2 standard have half mask air purifying respirators, including the 8710, listed with a protection factor of 10.

OSHA published its "Assigned Protection Factors; Final Rule" in 2006. Most of the data is based on respirators approved under 30 CFR 11, including the 8710. After reviewing the data, OSHA concluded that half mask air purifying respirators, including the 8710, have an assigned protection factor of 10. This means that when used in an OSHA compliant respirator program, half mask air purifying respirators such as the 8710 would reduce inhalation exposure by at least a factor of 10 (or 90%).

I will testify that it is the employer's responsibility to ensure that respirators used in workplace are part of a compliant respirator program. The ANSI Z88.2 and OSHA standards such as 29 CFR 1910.134 list components of an acceptable respirator program including:

- Program administrator
- Written procedures
- Exposure monitoring
- Using engineering controls to minimize exposure
- Proper respirator selection based on the hazards
- Employee training in proper respirator use and limitations
- Fit testing of respirators
- Respirator cleaning, inspection, maintenance and storage
- Medical evaluation
- Regular determination of program effectiveness

It is critical that respirators are worn during the entire time of exposure. Lack of visible dust does not indicate absence of a respirable hazard. If a respirator is removed for any reason during exposure, then the user will be fully exposed during that time.

The 8710 helps reduce respiratory exposure when used according to OSHA standards and industrial hygiene principles. It is my opinion that the 3M 8710 respirators used by James LaFrentz were not defective in any manner. If asked about the 3M 8500, I will testify that it was for non-toxic dusts.

Based on the documents provided to me in this case, Mr. LaFrentz was potentially exposed to asbestos in the early 1960s during cleanup of construction sites and removing pipes from the basement of an abandoned hospital. Even though these were dusty applications, he does not recall wearing a respirator. He also performed brake and clutch work over several years.

From 1978-1981 Mr. LaFrentz worked for General Dynamics at the Carswell Air Force Base where he drilled, sanded and deburred coupons (strips and panels) for testing. Each coupon took approximately 15-40 minutes. Mr. LaFrentz indicated that he did this work intermittently (e.g. 1 or 2 days a month) but processed at least 1000 coupons over the 3 year period. He would also clean up his station with a small broom and compressed air hose. There was no local exhaust ventilation and they were not allowed to wet the material to keep down the dust levels.

LaFrentz testified that respirators were not required by General Dynamics for his work. He was not aware of the materials or composition of the coupons. After a period of time, he "told the parts guy that...I needed a dust mask for all that dust." He claims to have been given the 3M 8710 but did not receive any training on the use or fitting. LaFrentz never saw any advertisement, literature, warnings or instructions for the 3M 8710.

He complained about the dust levels and smell to his supervisor, but no changes were made. On 2/26/80 a one minute air sample taken while Mr. LaFrentz was "Belt Sanding P 653 Panels" indicated 28.8 asbestos fibers/cc. This was above the 10 f/cc ceiling limit, but the safety engineer made no comments about the results or his respirator, and no changes were made. LaFrentz claims that at that time he didn't know what asbestos was or the associated health hazards. He doesn't recall discussion of asbestos at weekly safety meetings.

Other OSHA standards and good industrial hygiene practice dictate that employees must be trained on workplace hazards and their potential health effects. OSHA, NIOSH and other groups have published mandatory requirements and/or best practices for controlling worker exposure to asbestos, silica, coal dust and many other substances. Based on the documents provided to me, neither hazard communication, exposure control methods nor a respiratory protection program were properly implemented.

If additional depositions are taken, other experts raise issues or additional information becomes available, I may offer other opinions if they are within my scope of expertise and practice. This may include review of additional materials and documents.

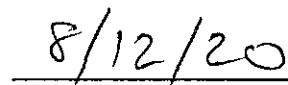
QUALIFICATIONS AND PUBLICATIONS: A copy of my curriculum vitae is attached, which lists my qualifications and publications.

TESTIMONY: A list of cases in which I have testified as an expert at trial or by deposition during the last four years is attached.

COMPENSATION: I am not being compensated beyond my normal salary.



Erik W. Johnson



Date

ERIK JOHNSON, MPH, CIH, CSP

Erik Johnson is a Technical Service Specialist with the Personal Safety Division of 3M Company. He has worked for the past 25 years with this Division. His current responsibilities include product development and stewardship, technical writing, and public speaking. Previously his focus was technical service for the Asia/Pacific region.

Erik holds a Bachelor of Arts Degree in Physics from St. Olaf College in Northfield, Minnesota and a Masters Degree in Public Health with emphasis in Industrial Hygiene from the University of Minnesota. He is a certified industrial hygienist and certified safety professional.

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G. Ramachandran, E.W. Johnson and J.H. Vincent "Inversion Techniques for Personal Cascade Impactor Data." *J. Aerosol Sci.* 27, 1083-1097, 1996.

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E.W. Johnson. "Construction Silica Competent Person" Various locations. 2017.

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E.W. Johnson "Permeation and Respiratory Protection", AIHA, State College PA 4/6/2016

E.W. Johnson "Developing Respirator Cartridge Change Schedules" AIHA webinar 3/10/2015

E.W. Johnson "Carbon Loaded Disposable Respirators: Intended Use and Capabilities" American Industrial Hygiene Association and Exposition, San Antonio, TX, 2014.

E. W. Johnson "Respirator Cartridges and Filters: How Do They Do What They Do" Voluntary Protection Programs Participants' Association, Nashville TN, 2013 and Washington DC, 2014.

E.W. Johnson "Respiratory Protection for Healthcare Workers" Occupational Safety + Health Asia, Singapore, 2008.

E.W. Johnson "Respiratory Protection and Engineered Nanoparticles" Occupational Health & Safety Industry Group, Auckland, New Zealand, 2008.

E.W. Johnson "Filtration Efficiency of Surgical Masks and Particulate Respirators Against Biological Aerosols" International Society for Respiratory Protection, Toronto, Canada, 2006.

E.W. Johnson "Long Term Diffusive Sampling: Literature Review and Testing" American Industrial Hygiene Association and Exposition, San Diego, CA, 2002.

E.W. Johnson and L.A. Brey. "Prediction of the Effect of High Relative Humidity on Organic Vapor Cartridge Performance" American Industrial Hygiene Association and Exposition, New Orleans, Louisiana, 2001.

E.W. Johnson and L.A. Brey "Prediction of Respirator Cartridge Service Life Against Organic Vapors at Workplace Concentrations" American Industrial Hygiene Association and Exposition, Atlanta, Georgia, 1998.

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CONTACT INFORMATION:

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Deposition and Trial Testimony of Erik Johnson, C.I.H.

Testimony:	Expert/30(b)6	Date:	Case:
Deposition	Expert	8/13/2020	<i>Larry L. Roemmich and Gloria Roemmich, Husband and Wife</i> Case No. 20-2-00926-1-KNT Superior Court of Washington, King County
Deposition	Expert	1/24/2020	<i>Alfred M. Burton v. 3M Company, et al.</i> Case No. 19-2-17070-1-KNT Superior Court of Washington for King County
Deposition	Expert	8/29/2019	<i>Valerie Jean Culver, as Personal Representative of the Estate of Robert D. Larson, Deceased, and Bessie Larson v. 3M Company, et al.</i> Case No. 18-2-03806-5-SEA Superior Court of Washington, King County
Deposition	Expert	8/28/2019	<i>Wayne Wright, Individually and as Personal Representative for the Estate of Warren Wright, Deceased v. 3M Company et al.</i> Case No. 18-2-03806-5-SEA Superior Court of Washington, King County
Deposition	30(b)6	5/31/2019	<i>Robert Miller and Janice Miller v. 3M Compan</i> Case No: 2-18-cv-00510-JAW USDC, District of Maine
Deposition	Expert	4/29/2019	<i>Randolph Morton and Edna Morton v. 3M Company</i> Case No. 702643 Superior Court of the State of California, County of Los Angeles
Deposition	Expert	2/21/2019	<i>Richard W. Lewis and Diane J. Lewis v. 3M Company, et al</i> Case 18-2-09747-4 Superior Court of Washington for Pierce Cou
Deposition	Expert	1/29/2019	<i>Terry Coleman, et al., v. 3M Company</i> Case No. 16-CI-238 <i>David Allen, et al., v. 3M Company</i> Case No. 16-CI-159 Knott County Circuit Court
Trial	Expert	12/14/2018	<i>Ida McCarthy, as Personal Representative of the Estate of Gerald T. McCarthy</i> Case No. 15-5621 Commonwealth of Massachusetts, Middlesex Superior Court
Deposition	Expert	11/1/2018	<i>Ida McCarthy, as Personal Representative of the Estate of Gerald T. McCarthy v. 3M Company</i> Case No. 15-5621 Commonwealth of Massachusetts, Middlesex Superior Court
Deposition	Expert	8/29/2018	<i>Richard Adams (Gaddy Hall) v. 3M Company</i> Case No. 15- CI-00310 Commonwealth of Kentucky, Letcher Circuit Court
Deposition	30(b)6 (Confidential)	11/28/2017	<i>Jackie D. Earls Jr., and Donna Earls v. 3M Company</i> Case No. 10-010111 In the Court of Common Pleas of Allegheny County, Pennsylvania

*Erik Johnson is an employee of 3M Company, there is no charge for his testimony.

Exhibit B

**Dennis J. Seal, Ph.D., P.E.
Seal Design & Engineering, Inc.
Human Factors and Product Safety
6461 Lake Circle Drive
Dallas, Texas 75214**

**Mr. Daniel C. Adams
Larson & King, LLP
Attorneys at Law
2800 Wells Fargo Place
30 East Seventh Street
Saint Paul, Minnesota 55101-4922**

13 August 2020

**Re: J. LaFrentz, et al v. 3M Company, et al
United States District Court-Southern District of Houston Division
Civil No: 4:18-cv-4229**

Mr. Adams,

Per the request of your office and as a Professional Engineer (Texas No. 79090), I have been asked to investigate both the human factors and industrial safety areas of the above-referenced case. The primary issues in this case include (but are not limited to) employee exposure to asbestos materials and the methods, engineering processes, employee training and safety information as related to respiratory protection. The opinions expressed are based on my education and experience in relevant areas of human factors and product safety engineering and my review of materials available to me at the date of this report. I am being compensated for my expert services on an hourly basis of \$320.00 per hour.

I have been requested to investigate issues of this case and specifically address human factors elements as these areas of my expertise relate to safety analysis and hazard identification, job analysis and risk mitigation, employee training, warnings and safety labels, product packaging and advertisements as well as employee behavior and work practices.

My professional qualifications include the following:

- (1) Total of 40 years developing and testing human factors and safety standards as well as applying engineering design criteria for industrial, governmental and aerospace applications, consumer product designs, development of warnings and instructional materials and the enforcement of occupational safety.
- (2) Member of the original American National Standards Institute (Z535.1-5) committee responsible for published standards for warning labels, safety symbols, environmental signage, user manuals and related hazard mitigation criteria. The basis of the usage of warnings paralleled the adoption of these ANSI standards.
- (3) Academic teaching assignments at the University level in applied areas of human factors, information processing theory, product safety, risk mitigation practices, research and test methodology and industrial engineering.
- (4) Development and enforcement of OSHA 1910 training programs including the implementation of Hazard Communication (HAZCOM) Programs, employee training and the use of facility warnings and product labels at Fortune 500 Companies.

- (5) Supervision of the design, production and distribution of safety information (labels and technical instructions) for various forms of human interfaces including consumer products, avionic warning systems, heavy machinery, highway signage, manufacturing environments and safety equipment.
- (6) Extensive research and published materials for corporate safety programs including, but not limited to, equipment safety warnings, technical manuals, safety literature, hazard analysis, risk mitigation and hazard resolution methods.

A complete listing of my professional areas of expertise and affiliations are detailed on the attached CV, including a Summary of my Areas of Specialization. A Rule 26 reference list of case testimony is available upon request. A brief summation of my education and professional experience is detailed below.

I received my Bachelor's degree from the University of Cincinnati and Master's degree in Experimental Psychology and Statistics from Texas A&M University. I continued my graduate studies and research programs at Texas A&M University in College Station, Texas culminating in the Doctorate degree in Industrial Engineering in 1980. I currently hold Professional Engineering licenses in the states of Texas (No. 79090) and Wyoming (No. 15888). While in graduate school I prepared scientific proposals and was funded by different agencies to conduct research while applying statistical calculations and reporting results on topics ranging from information processing, memory and learning, safety instructions, technical manuals, signage and various forms of "hazard alert" messages. These research projects led me into other scientific and engineering fields of application where I participated in the design of consumer products (as a member of the design staff) for clients contracted with the Industrial Design firm, Henry Dreyfuss Associates, in New York City. Our firm designed many different commercial products including the original automated teller machines (ATMs) for Citicorp, aircraft interiors for Falcon Jet and American Airlines, workspace environments for AT&T/Bell Laboratories, as well as John Deere industrial and agricultural machinery. It was during this early stage of my career that I acquired the foundation methodology of identifying product hazards and specifically while working alongside corporate engineering and manufacturing departments. It was my responsibility to review drawings, product models and prototypes and to identify specific hazards unique to these products and develop risk mitigation processes. The determinations to use warnings, as an alternate method of mitigation, were based on engineering analyses addressing calculated probabilities of occurrence, severity of risk and the scientific determination of potential risk(s) of each identified hazard. I have continued over the span of 40 years to use the same scientific processes for determining the usage of warnings in each of the following categories:

- 1. Mechanical:** powered tools, industrial machinery, aircraft components;
- 2. Chemical:** known and established carcinogens (e.g. PVC, asbestos);
- 3. Electrical:** electrical power systems; mission equipment, navigation equipment;
- 4. Environmental:** manufacturing facilities, industrial hazards, fire suppression systems;
- 5. Consumer products:** firearms, hand tools, sporting equipment and entertainment products.

WARNINGS: American National Standards Institute (ANSI Z535.1-5)

During my affiliation with Henry Dreyfuss Associates and our design contracts with different product manufacturers, I was invited to become a member of the ANSI Z535.1-5 Committee to participate in the development of specific criteria for safety warnings, determination of use, required format, verbiage, graphics and colors. The ANSI Z535.1-5 Specifications were adopted as industry standards in 1991 and established the fundamental criteria for (1) the determination of hazard avoidance and warning applications; (2) recommended signal words (i.e. DANGER, WARNING, CAUTION), (3) graphical format and font size, as well as content of the label, and symbols or safety instructions (based on Human Factors criteria). For commonality purpose, ANSI collaborates internationally with ISO, the International Organization for Standardization, in efforts to protect consumers and end-users of products by applying the same class of warning standards for recognition, comprehension and ultimately the avoidance of “identified” hazards.”

As a member of the ANSI Committee and throughout my professional engineering career, I have used the same methodology, statistical test procedures and methods of determination to identify the need for warning labels. On behalf of product manufacturers of machinery, power tools, chemicals, work environments, recreational products and other commercial products I have determined the “need” for safety warnings and subsequently developed specific warnings for manufacturers based on established ANSI criteria. Throughout my career, I have consulted in many litigated matters defending the use and adequacy of warnings used by manufacturers and have supported plaintiffs injured while using products where I have determined the use of warning labels were necessary and likely would have prevented injury or fatal consequences.

The opinions and conclusions documented in this report are based on my review of safety literature pertaining to occupational hazards while working in operations with the potential of creating asbestos dust. James LaFrentz worked various jobs over his lifetime beginning in the summer months of high school and continuing many years while working for General Dynamics/Lockheed beginning in 1979 until his retirement in 2005. LaFrentz worked different job assignments which more likely than not exposed him to asbestos dust.

For purposes of case evaluation and my summary of opinions, I have reviewed published literature as related to engineering controls, benefits of respiratory protection and documents pertaining to warnings, safety regulations and respiratory protection standards. I have also reviewed case specific legal documents including plaintiff's complaint and employment records. Specifically, in preparation of this report I have reviewed the following materials:

- (1) Plaintiff's First Amended Complaint;
- (2) Plaintiff's Second Amended Complaint;
- (3) Plaintiff's Verified Amended Complaint;
- (4) Plaintiff's Third Supplemental Rule 26(a) Disclosures;
- (5) Plaintiff's expert reports of Darrell A. Bevis filed on 06/23/2020, and Kenneth S. Garza filed on 06/12/2020;
- (6) Deposition transcripts of James LaFrentz Vol I, taken 11/14/2018 with Exhibits; J. LaFrentz Vol II, taken 11/15/2018 with Exhibits;
- (7) Plaintiff LaFrentz's Employment and Medical records;
- (8) Government Standards and Regulations (as related to respiratory protection and workplace safety): OSHA (29 and 30 CFR), 42 CFR Part84, ANSI Z535, NIOSH;
- (9) The 3M Model 8710 respirator and related packaging materials for relevant employment periods of James LaFrentz.

CASE BACKGROUND

Plaintiff James LaFrentz has alleged asbestos exposure during his employment years of 1979-2005 as an employee, initially with General Dynamics (GD) and retired from Lockheed Martin (in a purchase/merger arrangement). LaFrentz began work as a “drill press operator” in the parts fabrication department at GD. LaFrentz was assigned to the F-16 aircraft program and was responsible for drilling coupons/panels composed of honeycomb and metal plating. LaFrentz drilled $\frac{1}{2}$ ” holes into the aluminum test panels which contained an asbestos containing material (ACM) applied for thermal transfer purposes. After drilling the holes LaFrentz would sand the panels using a small belt sander or a ‘whirligig’ to deburr the holes and surfaces of the panels.

During his deposition testimony Mr. LaFrentz was asked if his job of drilling the test panels created any dust and his response was, “Yes, very much so. It was very, very dusty....I saw the dust with my own eyes and had to wipe it off my face.” (Deposition testimony of J. LaFrentz, Vol. 1, Page 69, Lines 1-9 and Lines 20-24) Mr. LaFrentz testified that when he first started drilling coupons, he “did not remember if he wore a mask, but doesn’t think he did.” LaFrentz stated he was never told he could be exposed to asbestos and that approximately 30-40 other GD employees were doing similar work in his assigned department. According to LaFrentz, no other employees wore masks in the parts fab department “while I was drilling or sanding the coupons.” (Deposition testimony of J. LaFrentz, Vol I, Page 88, Lines 5-9)

LaFrentz testified he was also responsible for the “massive cleanup” once he completed a “bin of panels.” LaFrentz would use a long-handled brush and clean his desk off (of dust) and if the panels were still dusty, he would use an air hose to blow dust off the test panels. He then used the brush to clean up the floor. (Deposition testimony of J. LaFrentz, Vol. 1, Page 88, Lines 11-20) According to Mr. LaFrentz’s testimony, he did not wear a mask when he began working at GD and subsequently began to wear a mask when he realized how much dust his job created. Other employees in the parts fab department did not always wear a mask, there were no policies in place to use a mask.” (Deposition testimony of J. LaFrentz, Vol. 1, Page 74, Lines 1-4)

LaFrentz has testified there was no safety training, fit-checking of masks, and never any enforcement at GD/Lockheed to wear any form of respiratory protection. LaFrentz was not aware of what products contained asbestos, what asbestos was or what the long-term risks were associated with asbestos dust exposure. General Dynamics did not instruct, or train its employees of the health risks associated with asbestos exposure. According to LaFrentz, he was not aware of “asbestos risks” or the potential of related diseases until approximately 1996 when a facilitator (at General Dynamics) “came down with mesothelioma.” (Deposition testimony of J. LaFrentz, Vol. 1, Page 93, Lines 11-16)

It is my opinion Mr. LaFrentz was not aware of the asbestos dust hazards in his work environments while assigned the above referenced jobs at General Dynamics. According to his testimony, LaFrentz was never informed he was working with asbestos products or that asbestos products were a risk to his health. Though he claims to have not worn a mask when he first began working in the parts fab department, he also testified he began wearing a mask (“he thought was the 8710”) when he would drill and deburr test panels. LaFrentz testified there were no respiratory protection policies in place at GD/Lockheed, and he had not reviewed any mask brochures, seen any advertisements, instruction sheets or warnings or other literature of any kind relative to respirator usage in his workplace. Although GD did hold 30-minute safety meetings each week, he did not recall any discussion concerning “hazards of asbestos dust.” (Deposition testimony of J. LaFrentz, Vol. 1, Page 95, Lines 2-22)

Although air sampling had been conducted at General Dynamics in February of 1980, the test results had not been communicated advising employees of test results or of any health hazards. The designated GD safety engineer had collected workplace air samples and recorded concentration levels as high as 28.8 f/cc in the parts fab shop when the allowable limit (PEL) was 2.0 f/cc (Ex 2 of plaintiff's file). Mr. LaFrentz was made aware of these test results but any related health implications were never communicated to GD/Lockheed employees as required by OSHA 1910 regulations. Mr. LaFrentz stated that he first became serious about his health and personal workplace safety when a facilitator at GD became sick with mesothelioma in 1996. "It was at this time I realized what asbestos was." (Deposition testimony of J. LaFrentz, Vol. 1, Page 93, Lines 3-16)

There is lack of evidence demonstrating that the employers of James LaFrentz, while employed at GD/Lockheed (or other places of employment) adopted the required safety programs with the intent of (1) alerting their employees to risks associated with asbestos dust exposure, (2) providing suitable respirator protection (in accordance with applicable standards with respect to usage, fit tests and checks, maintenance and training, (3) adopting suitable engineering dust controls as well as, (4) continually monitoring the work environment while assessing the degree of employee exposure to asbestos dust.

Relative to defendant 3M I have been asked to review the information contained on the packaging of the 3M Model 8710 respirator as well as other safety information for the relevant employment periods of Mr. LaFrentz. It is my opinion that the 3M respiratory devices do not present any risk of hazard to the users of this safety product. Based upon the information I have reviewed any workplace hazards to which Mr. LaFrentz was exposed were not caused by 3M products. It is more likely than not that the workplace environments, including product related materials (i.e. ACM) and the job operations performed by LaFrentz were the sources of asbestos exposure.

The safety literature in the area of warnings has demonstrated that warnings and safety instructions are most often ignored if the employer does not instruct employees and inform them of workplace hazards. The perception of a specific hazard and the associated levels of risk are the primary motivators for a change in behavior, i.e., the use of proper respiratory protection. Numerous studies in the areas related to warnings and safety label efficacy demonstrate the greater the perceived level of risk the greater the motivation to avoid the identified hazard. Fundamental to this finding is the premise that the "risk level" and "hazard level" must be known. Employees must be trained and made aware of specific hazards in their working environment. It is my expert opinion that Mr. LaFrentz did not receive appropriate hazardous training and specifically not with respect to the hazards of asbestos dust and the need for proper respiratory protection. LaFrentz was not aware of the severity of risk associated with asbestos dust exposure and the mitigation methods (e.g. substitute materials, engineering dust controls) that must be established and implemented by his employers. The hazard identification and resolution process, including related training programs, are the responsibility of the employer and must be enforced for maximum employee safety.

In summary of my opinions, 3M 8710 respirators do not present a personal risk of hazard. Since not presenting a personal risk of hazard, I am of the opinion that the 3M 8710 respirator would not require warnings, either on the packaging or the product itself. Furthermore, it is my expert opinion that the 3M packaging for these products, including the instructions and limitations, were appropriate in design, content and presentation during relevant times of Mr. LaFrentz's employment.

Warnings, safety instructions, and use limitations are forms of communication for alerting employees to potential hazard risks in the working environment. The product packaging for the 3M respirators during the relevant times included appropriate safety information addressing “uses and limitations.” However, the efficacy of such warnings and packaging information is dependent upon the employee’s awareness of a specific hazard and the risk level of each known hazard. Employers must identify each workplace hazard and train employees accordingly and must first work towards using non-toxic materials, secondly, adopting engineering controls (e.g. dust removal methods) and lastly relying on the temporary use of respiratory protection when exposure limits are exceeded.

This report is based on case specific documents as described earlier, including industry-accepted publications and journal published literature. I reserve the right to revise the expressed opinions should additional materials become available.

Respectfully Yours,



Dennis J. Seal, Ph.D., P.E.
Seal Design and Engineering, Inc.
Human Factors/Product Safety



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Dallas, Texas 75214
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EDUCATION:

Ph.D., Industrial Engineering/Human Factors and Product Safety
Texas A&M University, College Station, Texas, 1980

M.S., Experimental Psychology/Information Processing & Learning
Texas A&M University, College Station, Texas, 1974

B.A., Psychology, University of Cincinnati, Cincinnati, Ohio, 1972

PROFESSIONAL EXPERIENCE:

L-3 Com/AIRBORNE INTEGRATION SYSTEMS, INC. 1985 – Present
Airborne Integration, Inc., Waco, Texas
(Formerly Raytheon Systems and Chrysler Technologies)
Richardson, Texas

Senior Principal Engineer: Human Factors and Product Safety

- Director of Human Factors and Safety Engineering for all Corporate Programs
- Conduct research and qualification tests to support program efforts in product development and subsystem design and integration.
- Apply Human Factors and Safety criteria in the design of visual displays and controls, workstation layouts, aviation systems, hazard identification and risk mitigation, warnings and alerting devices, software and technical user manuals, and operator/maintainer environments.
- Establish program plans, test procedures, and analyze test data and report results in technical documentation and/or at scheduled Design Reviews (e.g. PDR, CDR, TIMs).
- Prepare/manage budget and technical documentation for contract proposals.
- Establish/maintain Corporate Hazard Communication Programs (OSHA 1910) for employee training in safety and health, including workstation evaluations, facility safety, HAZCOM initiatives, lift/weight issues, safety warnings and training.
- Integrate human engineering and safety criteria with mechanical and electrical engineers, software programmers, environmental test, quality control, and manufacturing departments during each appropriate design phase.

TEXAS INSTRUMENTS, INC., Dallas, Texas 1983 – 1985
Director, Human Factors/Ergonomics – Consumer Products

- Managed Human Factors Department for new product design, personnel staffing, administration and budget, product development activities, and test laboratory.
- Organized sample populations, methodology and research efforts for prototyped product tests (e.g. keyboards, joystick controls), analyzed results, and articulated production recommendations to the design staff.
- Establish Corporate Ergonomic product design criteria for U.S. and Japan Product Centers.
- Integrated Human Factors design criteria with Industrial Design, Graphics, Software, Marketing, Packaging, and Manufacturing staffs.

HENRY DREYFUSS ASSOCIATES, New York, New York **1979 – 1983**
Senior Human Factors Engineer – Industrial Design/Consumer Products

- Project activities included implementing human factors and safety requirements for consumer product designs. Also conduct research and pilot studies, as well as evaluate scaled mock-ups and prototypes in support of new product development.
- Worked closely with clients (e.g. AT&T, Falcon Jet, John Deere and Company, CITICORP, LearJet, Polaroid, and American Airlines) during all phases of product design to ensure human factors, safety and ergonomic requirements were implemented in final production.
- Served as a committee member of American National Standards Institute (ANSI Z535) for the purpose of establishing industrial standards based on human perception, detection, and comprehension of displayed information for warnings, symbols, and visual displays. Standards were adopted in 1991 for industry-wide use on commercial and industrial products.

SOUTHERN METHODIST UNIVERSITY, Dallas Texas 1985 – 1986
Adjunct Professor, Human Factors and Industrial Ergonomics
Operations Research and Engineering Management Department
Taught Human Factors/Product Safety courses to undergraduate and graduate level students.

TEXAS A&M UNIVERSITY, College Station, Texas 1977 – 1979
Visiting Instructor, Department of Psychology
Taught courses in Introductory, Industrial and Developmental Psychology to undergraduate and graduate level students.

DEPARTMENT OF TRANSPORTATION, Austin, Texas 1977 - 1979
Project Coordinator; Governor's Office of Traffic Safety

- Program Manager for D.O.T. project evaluating interactive effects of vehicular design, vibration/noise levels, highway design, perceived rates of speed, and comfortable driving speeds.
- Responsibilities included proposal preparation, contract and budget coordination, supervising research assistants, data analysis, organizing progress reports, and presenting the findings to the Department of Traffic Safety.

- Conducted studies to aid in the design and implementation of real-time information displays that were used on urban freeways and parallel alternative routes.
- Display designs were based on information processing theory, visual recognition, conspicuity and reaction times of drivers during simulated highway driving maneuvers.
- Results of study were used to publish the Texas Manual on Uniform Traffic Control Devices (for streets and highway application).

CURRENT RESPONSIBILITIES:

Director of Human Factors/Ergonomics and Product Safety engineering for corporate engineering. Engineering programs include systems design, product development and qualification tests, subsystem components, product designs and integrations, facility safety, aircraft modifications and airborne communication systems.

As facility human factors and safety engineer responsibilities include continued compliance to OSHA HAZCOM, Environmental Protection Agency (EPA), National Institute of Occupational Safety and Health (NIOSH), American Disabilities Act (ADA), and American National Standards Institute (ANSI).

Also responsible for site surveys, product and systems evaluation, hazard identification, safety warnings (ANSI Z535), and hazard resolution applications at all engineering, production and manufacturing phases.

Primary functions on engineering programs include workstation environments and component interface designs, anthropometric/operator studies, lighting and acoustic measurements, operator tasks and behavioral analyses, warnings, user manuals and training, design of controls and visual displays, safety and health reviews, mock-ups and prototype evaluations, ergonomic analyses, software applications, and final system integration and qualification tests.

AREAS OF INTEREST:

Product functionality and safety, product testing and qualification, mission-control environments; information processing theory and learning; hazard identification/resolution; warnings/signs and labels; quantitative methods; human factors in aviation; transportation safety.

PROFESSIONAL MEMBERSHIPS:

Registered Professional Engineer, State of Texas (P.E. 79090)
Human Factors and Ergonomics Society
Ergonomics/Occupational Safety and Health
American National Standards Institute (ANSI)
Consumer Product Safety Commission (CSPC)
Electronic Industries Association (EIA G-45)
Aircraft Owners and Pilots Association (AOPA)

SECURITY CLEARANCES:

TOP SECRET (Active)
COMSEC (Active)



Dennis Seal's Deposition and Trial Testimony
2009-2020

SEAL ¹	DATE	CASE
Deposition	3/13/2009	<i>Denton Crull, et al. v. A. W. Chesterton Company, et al.</i> <i>Case No. RG0840466</i> Alameda County, California
Deposition	3/30/2009	<i>John Scarduzio v.3M Company, et al.</i> <i>Case No. 08-L-643</i> Madison County , Illinois
Deposition	3/18/2011	<i>William R. Dennis, v. Asbestos Defendants (B P)</i> Case No. CGC-09-275157 San Francisco County, California
Deposition	5/7/2015	<i>Jessie Gray v. 3M Company, et al</i> <i>13-PL-CC00036</i> <i>Pike County</i>

¹ Seal's Hourly Fee: \$320

Deposition and Trial Testimony of Dennis Seal
2009-2020

Deposition	2/19/2016	<i>Elsa Clementir v. 3M Company, et al</i> <i>BC506479</i> <i>Los Angeles County</i>
Deposition	2/19/2016	<i>Elsa Clementir v. 3M Company, et al</i> <i>BC506479</i> <i>Los Angeles County</i>
Deposition	5/12/2016	<i>Fred Hill, et al. (Estate of Marion Russell Reynolds)</i> Case No. 05-C1-00589 <i>Commonwealth of Kentucky, Perry Circuit Court</i>
Deposition	7/13/2016	<i>Van Michael Parker v. 3M Company</i> Case No. 15-369-NJR-PMF <i>United States District Court, Southern District of Illinois</i>

Deposition and Trial Testimony of Dennis Seal
2009-2020

Deposition	3/1/2017	<i>John F. Collins, et al., v. 3M Company</i> <i>C.A. NO. 10-CI-00176</i> <i>COMMONWEALTH OF KENTUCKY</i> <i>KNOTT CIRCUIT COURT</i>
Deposition	3/30/2017	<i>Shirley Broussard v. 3M Company</i> <i>Case: 1:16-CV-00462-SHE</i> <i>United States District Court</i> <i>Eastern District of California</i>
Deposition	12/29/2017	<i>Angel Rigor v. 3M Company</i> <i>Case No: BC660976</i> <i>Superior Court of the State of California, County of Los Angeles</i>
Deposition	1/26/2018	<i>Burnis Hall (Leslie Cox and Michael Cox) v. 3M Company</i> <i>Case No. 16-CI-00100</i> <i>Commonwealth of Kentucky, Knott Circuit Court</i>

Deposition and Trial Testimony of Dennis Seal
2009-2020

Deposition	2/16/2018	<i>Fred Williams v. 3M Company</i> Case No. 16-CI-01061 Commonwealth of Kentucky, Pike Circuit Court
Deposition	10/8/2018	<i>Ida McCarthy v. 3M Company</i> Case No. 15-5621 Commonwealth of Massachusetts, Middlesex Superior Court
Trial	12/17/2018	<i>Ida McCarthy v. 3M Company</i> Case No. 15-5621 Commonwealth of Massachusetts, Middlesex Superior Court
Deposition	1/10/2019	<i>Terry Coleman, et al., v. 3M Company</i> Case No. 16-CI-238 <i>David Allen, et al., v. 3M Company</i> Case No. 16-CI-159 Knott County Circuit Court
Deposition	2/15/2019	<i>Richard W. Lewis and Diane J. Lewis v. 3M Company, et al</i> Case 18-2-09747-4 Superior Court of Washington for Pierce County
Deposition	4/11/2019	<i>Dennis Slone and Corbin Burke v. 3M Company</i> Case No. 17-CI-00846 Commonwealth of Kentucky, Pike Circuit Court

Deposition and Trial Testimony of Dennis Seal
2009-2020

Deposition	6/7/2019	<i>Apostolos Agrios, an Individual; Ann Agrios, an individual, v. 3M Company</i> Case No. BC -715172 Superior Court of the State of California, County of Los Angeles
Deposition	9/6/2019	<i>Valerie Jean Culver, as Personal Representative of the Estate of Robert D. Larson, Deceased, and Bessie Larson v. 3M Company, et al.</i> Case No. 18-2-03806-5-SEA Superior Court of Washington, King County
Deposition	9/6/2019	<i>Wayne Wright, Individually and as Personal Representative for the Estate of Warren Wright, Deceased v. 3M Company et al.</i> Case No. 18-2-03806-5-SEA Superior Court of Washington, King County
Deposition	8/7/2020	<i>Larry L. Roemmich and Gloria Roemmich, husband and wife</i> Case No. 20-2-00926-1-KNT Superior Court of Washington, King County

Exhibit C

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION
CIVIL NO.: 4:18-cv-4229

ILA LaFRENTZ, JIM LaFRENTZ,
KATHERINE PORTERFIELD, and
WILLIAM LaFRENTZ, Individually
and as Representatives of the Estate
of JAMES LaFRENTZ,

PLAINTIFFS

vs.

3M COMPANY, ET AL.,

DEFENDANTS.

Report of Philip D. Eitzman, Ph.D., Ila LaFrentz, et al. vs. 3M Company, et al.

This report represents my opinions relating to the case of Ila LaFrentz, Jim LaFrentz, Katherine Porterfield and William LaFrentz, Individually and as Representatives of the Estate of James LaFrentz vs. 3M Company, et al., in United States District Court in the Southern District of Texas (Civil No. 4:18-cv-4229). My opinions are based on the available information that I have reviewed to-date. In the event that I am provided with additional information, I may have additional or supplemental opinions.

I am currently an employee of 3M Company and have been continuously employed by 3M since 1991. My current assignment is as a Division Scientist in the Personal Safety Division (PSD). Since 1994, I have worked on many aspects of the development and production of 3M disposable respirators, including filter media development, respirator design, manufacturing equipment design and quality control. I hold numerous patents related to respirator filter media and disposable respirator design. I received a B.S.Ch.E. in Chemical Engineering from the University of Florida in 1986. I received a Ph.D. in Chemical Engineering from the University of Minnesota in 1992.

My opinions are based on my education, training and experience and on my review of various 3M documents and data, the testimony and opinions of various 3M lay and expert witnesses, scientific publications, texts and studies, the pleadings and other documents and evidence in this case.

The complaint in this case alleges that James LaFrentz, deceased, was exposed to airborne asbestos while working as a machinist at a General Dynamics aircraft plant located in Fort Worth, Texas. According to Mr. LaFrentz's testimony in deposition, the work that resulted in his alleged exposure involved drilling and sanding samples of aircraft panels or "coupons" in preparation for tests conducted by other employees of

General Dynamics. In further testimony, he indicated that his alleged exposure to airborne asbestos resulted from his preparation of coupons that occurred sometime between 1979 and 1982. Mr. LaFrentz testified that he wore 3M 8710 respirators while preparing coupons during this time except for a period of one or two weeks in 1979.

It is my opinion that government-approved 3M respirators, such as the 3M 8710, could have been used as part of a properly-run respiratory protection program to reduce workers' exposure to various dusts. It is also my opinion that 3M has provided instructions for effective fit tests and user seal checks for its government-approved disposable respirators, including the 3M 8710. If Mr. LaFrentz's employer was following applicable OSHA regulations, including requirements for monitoring the workplace, for the selection of respiratory protection equipment and proper training of workers, and that program included the 3M 8710 respirator it is my opinion that his exposure to asbestos dust would have been reduced to below the permissible exposure limit (PEL). In 1986, OSHA regulations changed and no longer allowed the use of single-use respirators, which includes the 3M 8710 respirator, to reduce workers' exposure to airborne asbestos.

It is my opinion that the manufacturing processes and quality control procedures used by 3M in the manufacture of the NIOSH-approved 3M respirators, such as the 3M 8710, were reasonable and met all requirements of the respirators' approval under 30 CFR 11. I may testify about the design and manufacture of the NIOSH-approved 3M respirators and their component parts. I may also testify regarding the quality control systems and quality control practices used by 3M in the manufacture of 3M respirators.

I expect to testify about the testing of 3M disposable respirators per the requirements of 30 CFR 11, including the testing of those respirators with silica dust aerosol. My testimony regarding 30 CFR 11 may include the respirator approval process and the specific requirements for the approval of single-use dust masks.

In my opinion 3M 8710 respirators and other approved 3M respiratory protection equipment were and are appropriately designed and reasonably safe for their intended uses.

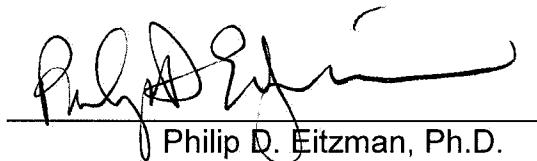
I may offer additional testimony concerning any issue raised by other experts or any other party in this case or any other relevant documents that become available, provided those opinions are within my fields of expertise.

My opinions expressed in this report are also based on case-specific materials provided to me which included the following:

1. Deposition transcript of James LaFrentz, taken 11/14/2018;
2. Deposition transcript of James LaFrentz, taken 11/15/2018;
3. Exhibits to the depositions of James LaFrentz;
4. Plaintiffs' Third Supplemental Rule 26(A) Disclosure;

5. Expert Report of Darell Bevis;
6. Expert Report of Ken Garza;
7. Plaintiffs' Second Amended Complaint

Dated: August 13, 2020



Philip D. Eitzman, Ph.D.

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PHILIP D. EITZMAN, PH.D.

EDUCATION

1982 - 1986	University of Florida	Gainesville, FL
	<i>B.S.Ch.E. in Chemical Engineering</i>	
1986 - 1992	University of Minnesota	Minneapolis, MN
	<i>Ph.D. in Chemical Engineering</i>	

PROFESSIONAL EXPERIENCE

1976 - 1982	US Navy	
	<i>Nuclear Power Operator</i>	
■	Served on USS Memphis (SSN-691)	
1991 - 1994	3M Bioapplications Laboratory	
	<i>Product Development Engineer</i>	
■	Development and scale-up of biosupports for chromatography and biocatalysis	
1994 - 2006	3M Occupational Health and Environ. Safety Laboratory	
	<i>Maintenance-Free Respirator Laboratory Group Leader</i>	
■	Development of filter media for respiratory protection	
■	Development of disposable respirators for global markets	
2006 – February, 2009	3M Occupational Health and Environ. Safety Division	
	<i>Six Sigma Black Belt</i>	
■	Improvement of existing business and manufacturing processes in the 3M Occupational Health and Environ. Safety Division	
February, 2009 – April, 2017	3M Personal Safety Division	
	<i>Senior Product Development Specialist</i>	
■	Development of disposable respirators for global markets	
April, 2017 - present	3M Personal Safety Division	
	<i>Division Scientist</i>	
■	Development of disposable respirators for global markets	
■	Company-wide innovation	

PATENTS AND PUBLICATIONS

Patents	<p>US Patent 6,824,718 “Process of making a fibrous electret web”</p> <p>US Patent 6,454,986 “Method of charging respirator filter fibrous web using a non-aqueous polar liquid”</p> <p>US Patent 6,406,657 “Method of charging fibrous web with aqueous polar liquid”</p> <p>US Patent 6,375,886 “Method of charging non-conductive free fibers”</p> <p>US Patent 5,614,105 “Cartridge filters with insoluble enzyme particulates contained thereon”</p> <p>US Patent 5,478,466 “New filter element for chemical conversions”</p> <p>US Patent 5,468,847 “Method of isolating and purifying a biomacromolecule”</p>
Publications	<p>Johnson PR, Stern NJ, Eitzman PD, Rasmussen JK, Milbrath DS, Gleason RM and Hogancamp RE, “Reproducibility of physical characteristics, protein immobilization and chromatographic performance of 3M Emphaze Biosupport Medium AB1”, <i>Journal of Chromatography</i>, 1994, vol 667, pp 1-9.</p> <p>Eitzman PD and Srienc F, “Dynamics of activation of galactose-inducible promoter in <i>Saccharomyces cerevisiae</i>”, <i>Journal of Biotechnology</i>, 1991, vol 21, pp 63-82.</p> <p>Block DE, Eitzman PD, Wangensteen JD and Srienc F, “Slit scanning of <i>Saccharomyces cerevisiae</i> cells: Quantification of asymmetric cell division and cell cycle progression in asynchronous culture”, <i>Biotechnology Progress</i>, 1990, vol 6, pp 504-512</p> <p>Eitzman PD, Hendrick JL and Srienc F, “Quantitative immunofluorescence in single <i>Saccharomyces cerevisiae</i> cells”, <i>Cytometry</i>, 1989, vol 10, pp 475-483.</p> <p>Stainsby WN and Eitzman PD, “Roles of CO₂, O₂ and acid in arteriovenous [H⁺] during muscle contractions”, <i>Journal of Applied Physiology</i>, 1988, vol 65, pp 1803-1810.</p> <p>Stainsby WN, Sumners C and Eitzman PD, “Effects of adrenergic agonists and antagonists on muscle O₂ uptake and lactate metabolism”, <i>Journal of Applied Physiology</i>, 1987, vol 62, pp 1845-1851.</p> <p>Stainsby WN and Eitzman PD, “Lactic acid output of cat gastrocnemius-plantaris during repetitive twitch contractions”, <i>Medicine and Science in Sports and Exercise</i>, 1986, vol 18, pp 668-673.</p> <p>Stainsby WN, Sumners C and Eitzman PD, “Effects of catecholamines on lactic acid output during progressive working contractions”, <i>Journal of</i></p>

Presentations related
to respiratory
protection

Applied Physiology, 1985, vol 59, pp 1809-1814.

P. Eitzman(presenter), L. Barrett, J. Huberty, A. Viner, "A Comparison of 30 CFR 11 and 42 CFR 84 Certification Tests for Particulate Respirators." American Industrial Hygiene Conference and Exhibition, 1996, Washington, DC.

Deposition and Trial Testimony of Philip D. Eitzman, Ph. D.

Testimony:	Expert/30(b)6	Date:	Case:
Deposition	Expert	8/12/2020	<i>Larry L. Roemmich and Gloria Roemmich, Husband and Wife</i> Case No. 20-2-00926-1-KNT <i>Superior Court of Washington, King County</i>
Deposition	Expert	1/23/2020	<i>Alfred M. Burton v. 3M Company, et al.</i> Case No. 19-2-17070-1-KNT <i>Superior Court of Washington for King County</i>
Deposition	30(b)6	1/9/2020	<i>Alfred M. Burton v. 3M Company, et al.</i> Case No. 19-2-17070-1-KNT <i>Superior Court of Washington for King County</i>
Deposition	30(b)6	5/30/2019	<i>Valerie Jean Culver as Personal Representative of the Estate of Robert D. Larson, Deceased and Bessie Jean Larson v. 3M Company, et al</i> Case No: 18-2-03806-5-SEA <i>Superior Court of Washington for King County</i> & <i>Wayne Wright, Individually and as Personal Representative for the Estate of Warren Wright, Deceased</i> Case No: 18-2-2204-5-SEA <i>Superior Court of Washington for King County</i>
Deposition	30(b)6	5/29/2019	<i>Valerie Jean Culver as Personal Representative of the Estate of Robert D. Larson, Deceased and Bessie Jean Larson v. 3M Company, et al</i> Case No: 18-2-03806-5-SEA <i>Superior Court of Washington for King County</i> & <i>Wayne Wright, Individually and as Personal Representative for the Estate of Warren Wright, Deceased</i> Case No: 18-2-2204-5-SEA <i>Superior Court of Washington for King County</i>
Deposition	Expert	4/29/2019	<i>Randolph Morton and Edna Morton v. 3M Company</i> Case No. 702643 <i>Superior Court of the State of California, County of Los Angeles</i>
Trial	Expert	4/11/2019	<i>Richard W. Lewis and Diane J. Lewis v. 3M Company, et al</i> Case 18-2-09747-4 <i>Superior Court of Washington for Pierce County</i>
Deposition	30(b)6	2/21/2019	<i>Richard W. Lewis and Diane J. Lewis v. 3M Company, et al</i> Case 18-2-09747-4 <i>Superior Court of Washington for Pierce County</i>
Deposition	Expert	2/12/2019	<i>Richard W. Lewis and Diane J. Lewis v. 3M Company, et al</i> Case 18-2-09747-4

Deposition and Trial Testimony of Philip D. Eitzman, Ph. D.

			Superior Court of Washington for Pierce County
Deposition	Expert	1/30/2019	<i>Terry Coleman, et al., v. 3M Company</i> Case No. 16-CI-238 <i>David Allen, et al., v. 3M Company</i> Case No. 16-CI-159 Knott County Circuit Court
Trial	Expert	12/12/2018	<i>Ida McCarthy, as Personal Representative of the Estate of Gerald T. McCarthy</i> Case No. 15-5621 Commonwealth of Massachusetts, Middlesex Superior Court
Deposition	Expert	10/31/2018	<i>Ida McCarthy, as Personal Representative of the Estate of Gerald T. McCarthy</i> Case No. 15-5621 Commonwealth of Massachusetts, Middlesex Superior Court
Deposition	30(b)6	5/23/2018	<i>Ida McCarthy, as Personal Representative of the Estate of Gerald T. McCarthy</i> Case No. 15-5621 Commonwealth of Massachusetts, Middlesex Superior Court
Trial	Expert	10/5/2018	<i>John Rothenbecker v. 3M Company</i> Case No. 3:17 – CV-585 United States District Court, Middle District Court of Pennsylvania
Deposition	Expert	6/12/2018	<i>David Allen, et al (Jerry Terry) v. 3M Company</i> Case No. 16-CI-00159 Commonwealth of Kentucky, Knott Circuit Court
Deposition	30(b)6	5/23/2018	<i>Ida McCarthy, as Personal Representative of the Estate of Gerald T. McCarthy</i> Case No. 15-5621 Commonwealth of Massachusetts, Middlesex Superior Court
Trial	Expert	4/18/2018 and 4/20/2018	<i>Burnis Hall, et al (Leslie Cox and Michael Cox) v. 3M Company</i> Case No. 16-CI-00100 Commonwealth of Kentucky, Knott Circuit Court
Deposition	Expert	2/16/2018	<i>Fred Williams v. 3M Company</i> Case No. 16-CI-01061 Commonwealth of Kentucky, Knott County
Trial	Expert	2/1/2018	<i>Angel Rigor v. 3M Company</i> Case No. BC660976 Superior Court of the State of California, County of Los Angeles
Deposition	Expert	1/31/2018	<i>Angel Rigor v. 3M Company</i> Case No. BC660976

Deposition and Trial Testimony of Philip D. Eitzman, Ph. D.

			Superior Court of the State of California, County of Los Angeles
Deposition	Expert	1/9/2018	<i>Burnis Hall, et al (Leslie Cox and Michael Cox) v. 3M Company</i> Case No. 16-CI-00100 <i>Commonwealth of Kentucky, Knott Circuit Court</i>
Deposition	30(b)6	12/13/2017	<i>Angel Rigor v. 3M Company</i> Case No. BC660976 Superior Court of the State of California, County of Los Angeles
Trial	Expert	9/15/2017 and 9/19/2017	<i>Isaac Overbee v. 3M Company</i> Case No. 16-CI-00313 <i>County of Kentucky, Knott Circuit Court</i>
Deposition	30(b)6	6/22/2017	<i>Isaac Overbee v. 3M Company</i> Case No. 16-CI-00313 <i>County of Kentucky, Knott Circuit Court</i>
Deposition	Expert	3/22/2017	<i>Shirley Broussard v. 3M Company</i> Case: 1:16-CV-00462-SHE <i>United States District Court</i> <i>Eastern District of California</i>
Deposition	Expert	2/13/2017	<i>Walter Readwin v. 3M Company, et al</i> 16-2-18894-0 SEA <i>Superior Court of Washington County of King</i>
Deposition	30(b)6	1/25/2017	<i>Walter Readwin v. 3M Company, et al</i> 16-2-18894-0 SEA <i>Superior Court of Washington County of King</i>
Deposition	Expert	9/14/2016	<i>Stanley McFadden v.3M Company</i> Case No. 4:14-CV-00803 United States District Court Eastern District of Missouri, Eastern Division
Trial	Expert	8/2016	<i>Fred Hill, et al. (Estate of Marion Russell Reynolds)</i> Case No. 05-C1-00589 Commonwealth of Kentucky, Perry Circuit Court
Deposition	Expert	7/19/2016	<i>Van Michael Parker v. 3M Company</i>

Deposition and Trial Testimony of Philip D. Eitzman, Ph. D.

			Case No. 15-369-NJR-PMF United States District Court, Southern District of Illinois
Deposition	Expert	6/29/2016	<i>Van Michael Parker v. 3M Company</i> <i>Case No. 15-369-NJR-PMF</i> <i>United States District Court, Southern District of Illinois</i>
Deposition	Expert	2/26/2016	<i>Elsa Clementir v. 3M Company, et al</i> <i>BC506479</i> <i>Los Angeles County</i>
Deposition	30(b)6	11/25/2015	<i>Edward Mozingo v. 3M Company, et al</i> <i>2013-69-CV6</i> <i>Jones County</i>
Trial	Expert	5/19/2015	<i>Jessie Gray v. 3M Company, et al</i> <i>13-PL-CC00036</i> <i>Pike County</i>
Deposition	Expert	2/24/2015	<i>Jessie Gray v. 3M Company, et al</i> <i>13-PL-CC00036</i> <i>Pike County</i>
Deposition	30(b)6	1/21/2015	<i>Gerald R. Boyd v. 3M Company, et al</i> <i>RG-14-738647</i> <i>Alameda County</i>
Deposition	30(b)6	1/20/2015	<i>Gerald R. Boyd v. 3M Company, et al</i> <i>RG-14-738647</i> <i>Alameda County</i>
Deposition	Expert	11/4/2014	<i>Fred Hill, et al v. 3M Company, et al</i> <i>05-CI-00589</i> <i>Perry Circuit Court</i>
Deposition	30(b)6	6/11/2014	<i>Jerry Clanton v. 3M Company, et al</i> <i>251-12-720-CIV</i> <i>Circuit Court of Hinds County</i>

*Dr. Eitzman is an employee of 3M Company, there is no charge for his testimony.

Exhibit D

CURRICULUM VITAE (10/2017)

NAME: Thomas M. Wheeler, M.D.

WORK ADDRESS: Baylor College of Medicine
Department of Pathology & Immunology
One Baylor Plaza, Room T203
Houston, TX 77030
Phone: 713-798-4664
Fax: 713-798-6001
EMAIL: twheeler@bcm.tmc.edu

NATIONALITY: U.S.A.

EDUCATION:

1971-74	Houston Baptist University, Houston, Texas, B.S. Degree in Chemistry/Biology, Summa Cum Laude, awarded 1975
1974-77	Baylor College of Medicine, Houston, Texas, M.D. Degree with high honors 1977

POSTGRADUATE TRAINING:

1977-81	Resident in Pathology, Baylor College of Medicine and Affiliated Hospitals, Houston, Texas
1980-81	Chief Resident in Pathology, Baylor College of Medicine and Affiliated Hospitals, Houston, Texas

SPECIALTY BOARD CERTIFICATION:

1981	American Board of Pathology, Anatomic and Clinical
1990	American Board of Pathology, Cytopathology
1998, 2010	American Board of Pathology, Anatomic and Clinical, Voluntary Recertification.

LICENSURE:

1977	Texas (FLEX examination), E9007
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FACULTY APPOINTMENTS:

1981-89	Assistant Professor of Pathology, Baylor College of Medicine, Houston, Texas
1987-89	Assistant Professor of Urology, Baylor College of Medicine, Houston, Texas
1989-91	Clinical Assistant Professor of Pathology, Baylor College of Medicine, Houston, Texas
1992-1995	Associate Professor of Pathology and Urology, Baylor College of Medicine, Houston, Texas

1995-pr	Professor of Pathology and Urology, Baylor College of Medicine, Houston, Texas
1995-pr	Associate Chairman for Clinical Affairs, Department of Pathology, Baylor College of Medicine, Houston, Texas
2001-pr	Harlan J. Spjut, M.D., Professor, Department of Pathology, Baylor College of Medicine, Houston, Texas
2004-2007	Interim Chairman, Department of Pathology, Baylor College of Medicine, Houston, Texas
2007-2009	Chairman, Department of Pathology, Baylor College of Medicine, Houston, Texas
2009-pr	Chairman, Department of Pathology & Immunology, Baylor College of Medicine, Houston, Texas
2013-pr	W.L. Moody, Jr., Professor & Chair , Department of Pathology & Immunology, Baylor College of Medicine, Houston, TX

HONORS & AWARDS:

College:

Alpha Chi Honor Society
American Institute of Chemists Award (outstanding senior student in Chemistry)
Outstanding Alumnus, Houston Baptist University, 1997

Medical School and Postgraduate Career:

Alpha Omega Alpha, 1976--present
Stuart A. Wallace Award (outstanding student in Pathology), 1976
Award for Excellence in Physiology, 1975
Voted by peers to be included in listing of *The Best Doctors in America*, 1998-present
Herbert Lansky Award, College of American Pathologists, 1999
Life Member of the *National Registry of Who's Who*, 2001
Voted by peers to be included in listing of *America's Top Doctors*, 2001-present
George T. Caldwell, MD Distinguished Service Award, Texas Society of Pathologists, 2007
Outstanding Alumnus, Baylor College of Medicine, 2009
Voted by peers to be included in listing of *America's Top Doctors for Cancer*, 2007-present
Harlan J. Spjut Award, presented by Houston Society of Clinical Pathologists, 2012
Meritorious Patient Service Award, presented by the College of American Pathologists, 2014

TEXAS MEDICAL CENTER HOSPITAL STAFF POSITIONS:

2016 – present	Chief of Pathology Service and Laboratory Director CHI/Baylor St. Luke's Medical Center
1981-present	Attending Pathologist, Ben Taub General Hospital, Chief of Pathology 2013-2015
1991-2004	Deputy Chief of Service, Department of Pathology, Houston Methodist Hospital, Houston, Texas
1989-91	Attending Pathologist, Memorial Hospital System, Houston, Texas

1985-89	Attending Pathologist and Head, Section of Anatomic Pathology, Houston Methodist Hospital, Houston, Texas
1981-1985	Assistant Pathologist, Section of Anatomic Pathology, Houston Methodist Hospital, Houston, Texas

TEXAS MEDICAL CENTER EDUCATIONAL ACTIVITIES:

1981-pr	Lecturer in sophomore Pathology Course, Baylor College of Medicine, Houston, Texas
1985-86	Lecturer in Cytotechnology School of the University of Texas School for Allied Health Sciences, Houston, Texas

EDITORIAL BOARD:

1996-pr	<i>Human Pathology</i>
1999-pr	<i>Prostate</i>
1999-01	<i>Clinical Thyroidology</i>
2000-pr	<i>American Journal of Surgical Pathology</i>
2005-pr	<i>Archives of Pathology & Laboratory Medicine</i> (Executive Advisory Board)
2007-pr	Editor-in-Chief, <i>Medscape Reference</i> online textbook of Pathology and Laboratory Medicine
2010-pr	<i>American Journal of Translational Research</i>
2010-pr	Medscape for WebMD Pathology & Laboratory Medicine Advisory Board
2010-pr	<i>Modern Pathology</i>

Ad hoc reviewer:

Cancer
Journal of Urology
British Journal of Urology
Urology
Cancer Research
Journal of Clinical Oncology
Clinical Cancer Research
American Journal of Pathology
New England Journal of Medicine
Canadian Journal of Urology

MEDICAL ADVISORY BOARD:

August 2017 – present Board Member, Insightec

PROFESSIONAL SOCIETY MEMBERSHIPS:

Alpha Omega Alpha
American Board of Pathology, Anatomic Pathology Test Committee (1995-99)
American Association for Cancer Research
American Foundation for Thyroid Patients (Medical Advisory Board, 1998-1999)
American Medical Association
American Society for Clinical Pathology
American Society of Cytopathology
American Society of Investigative Pathology
American Thyroid Association
American Urological Association

Association of Pathology Chairs

College of American Pathologists (State Advisory Committee, 1994-97 Chair, 1999-2000; Delegate to House of Delegates, 1993-2003; Government Affairs Committee, 1996-2003, Chair 2001; Council on Government and Professional Affairs, 1999-2003, 2010-2016; Nominating Committee 2000 and 2010-11, Chair, 2001, 2011; Education Committee 2004-2006; Council on Scientific Affairs, 2004-2010, 2012-pr, Chair, 2005-2009; Board of Governors, 2003-2009; Compensation Committee, 2005; Executive Committee, 2005-2009, Chair, Ad Hoc Work Group for Pathology Report Standardization, 2006-07, Cancer Protocol Panel on Genitourinary Tumors, 2007-pr, Joint CAP/ASCO ad hoc joint committee on HER2, ER/PR testing. Cancer Committee 2010-2011, Education Program AP3, GU Prostate (Chair) 2011-pr; Policy Roundtable Committee 2012-pr; Practice Characteristics Survey Subcommittee, Chair 2015; Liaison: International Collaboration on Cancer Reporting (ICCR) Board of Directors

Harris County Medical Society

Houston Society of Clinical Pathologists (President, 1992; Scientific Seminar Chair 1988, 2001)

International Society of Urological Pathology

Society of Cardiovascular Pathology

Texas Society of Cytology (President, 1988)

Texas Society of Pathologists (Alternate Delegate, 1993-1995, Delegate 1995-present, Secretary 1997, President-Elect 1998, President 1999, Chair Nominating Committee 2000); member, Legislative Council, 2005-present

The Thyroid Society for Education and Research (Board of Directors, 1993-98)

U.S. and Canadian Academy of Pathology (Abstract Review Board, 1997-2000, 2006-2009)

Center for Medicine after the Holocaust (Board of Directors 2010-2016)

COMMITTEES:

1984-04	HMH Cancer Committee (Chairman; 1992-95; 1998-2004)
1986-88	HMH Tumor Registry Subcommittee (Chairman, 1986-89)
1994-98	HMH Record Committee
1996-04	HMH Operating Room Committee
2000-01	HMH General Abdominal Pelvic Quality Management Committee (Chair 2004)
2000-03	HMH Nominating Committee (Chairman 2000)
2000-05	Baylor Medcare Executive Committee
2003-05	Baylor Medical Liability Insurance Committee
2005-pr	Texas State Board of Medical Examiners Expert Physician Panel Member
2006-08	Love Award Selection Committee, BCM
2004-pr	Cancer Committee, Medical Staff Committee, St. Luke's Episcopal Hospital
	Faculty Appointments and Promotions Committee, BCM (Deputy Vice Chair, 2010-2015; Chairman 2015 - present)
2004-pr	Academic Council, BCM
2011-pr	Faculty Group Practice Executive Committee, BCM
2013-14	Business Development Committee, BCM
2014-pr	COI Committee BCM
2016-pr	Baylor St. Luke's Medical Center: Medical Executive Cmt; Credentials Cmt

GRANTS:

1992-2007	Director, CF2, Pathology, Specialized Program Of Research Excellence (SPORE) in Prostate Cancer, National Institute of Health, 1 P50 CA58204- 01 CF2, Direct Costs: \$115,939
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1992-2007 SPORE in Prostate Cancer (PI: Thompson, Timothy), Project Number: 5 P50 CA05204-10, Source: NIH/NCI, Direct Cost: \$131,959.

1999-2004 Transgenic Mouse Models of Prostate Cancer (PI: Norman Greenberg), Project Number: 5 U01 CA84296-05 PJ2, Direct Cost: \$41,313.

1994-2009 Director of Central Histopathology Reading Center, Prostate cancer Intervention Versus Observation Trial (PIVOT), Veterans Administration/National Cancer Institute Cooperative Studies Program #CSP 407

1995-2005 Principal Investigator, Pathology, Cooperative Human Tissue Network, National Institute of Health, U01 CA44968, Direct Costs: \$13,344

1997-2002 Co-Investigator, RP1, Pathology, National Institute of Health, P50 CA58204-RP1, Direct Costs: \$98,600

1999-2001 Principal Investigator, Administrative Supplement, Pathology, National Institute of Health, P50 CA58204, Direct Costs: \$271,425

2001 PIN 1 Evaluation in Prostate Cancer, Project Number: Pintex Pharmaceuticals, Source: Pintex Pharm., Inc., Direct Cost: \$126,984.

2003-2006 MR Imaging and MR Spectroscopic Imaging of Prostate Cancer Prior to Radical Prostatectomy: A Prospective Multi-Institutional Clinicopathological Study (Pathologist Central Reviewer). ACRIN 6659. Direct Cost \$24,000

2005-2009 Principal Investigator, "A Randomized Double-Blind, Placebo-Controlled, Parallel Group Study of the Efficacy and Safety of Dutasteride 0.5mg Administered Orally Once Daily for Four Years to Reduce the Risk of Biopsy-Detectable Prostate Cancer". GlaxoSmithKline. Direct Costs: \$29,600

INVENTIONS, PATENTS AND COPYRIGHTS:

"Prostate Tissues (Frozen) For Research"

Developers: **Thomas M. Wheeler**
Licensee: Epigenomics, Inc.

"A Nomogram to Predict the Risk of Any Cancer and of Clinically Significant Cancer Detection at Prostate Biopsy Utilizing Clinical Parameters and Novel Serum Markers (e.g. including hK2, proPSA, BPSA)"

Filed with United States Patent and Trademark Office: May 11, 2005

Developers: Kevin M. Slawin, Michael W. Kattan, **Thomas M. Wheeler**
Licensee: Progression Therapeutics, Inc.

PUBLICATIONS:

Papers:

1. **Wheeler T**, McGavran M, Sessions R: Myospherulosis, iatrogenic nasal and paranasal entity. *Arch Otolaryngol* 106:272, 1980.
2. **Wheeler T**, McGavran M. Myospherulosis, further observations. *Am J Clin Pathol* 73:685, 1980.
3. Panko W, Mattioli C, **Wheeler T**. Lack of correlation of a histochemical method for estrogen receptor analysis with the biochemical assay results. *Cancer* 49:2149, 1982.
4. Rice L, Laughter A, Twomey J, Abramson S, **Wheeler T**, Shanken P. Angioimmunoblastic lymphadenopathy with hypogammaglobulinemia: possible role of monocyte suppression. *Am J Med* 72:998, 1982.
5. Rice L, Shenkenberg T, Lynch E, **Wheeler T**: Granulomatous infections complicating hairy cell leukemia. *Cancer* 49:1924, 1982.
6. Rubenfeld S, **Wheeler T**, Spjut H. Fine needle aspiration of thyroid nodules. *Texas Med* 78:41, 1982.
7. Font R, **Wheeler T**, Boniuk M. Intravascular papillary endothelial hyperplasia of the orbit and ocular adnexa: report of 5 cases. *Arch Ophthalmol* 101:1731, 1983.
8. Riccardi V, **Wheeler T**, Pickard L, King B. The pathophysiology of neurofibromatosis: II. Angiosarcoma as a complication. *Cancer Genet Cytogenet* 12:275, 1984.
9. Scardino P, **Wheeler T**: Prostatic biopsy after irradiation therapy for prostatic cancer. *Suppl Urol* 5:39, 1985.
10. Rex J, Harris R, **Wheeler T**, et al.: Granulomatous disease complicating hairy cell leukemia. *Texas Med* 81:31, 1985.
11. Harris R, Lawrie G, **Wheeler T**, et al.: Successful management of Histoplasma capsulatum infection of an abdominal aortic aneurysm. *J Vasc Surg* 3:649-651, 1986.
12. Scardino P, Frankel J, **Wheeler T**, et al.: The prognostic significance of post-irradiation biopsy results in patients with prostatic cancer. *J Urol* 135:510, 1986.
13. Irani D, **Wheeler T**: Tyrosine crystals in a pleomorphic adenoma. *The American Society of Clinical Pathologists Check Sample, Cytopathology* 10(5), 1986.
14. Truong L, Harris L, Mattioli C, Hawkins E, Lee A, **Wheeler T**, Lane M: Endodermal sinus tumor of the mediastinum. *Cancer* 58:730, 1986.
15. Coburn M, **Wheeler T**, Lipshultz L: Testicular biopsy: uses and limitations. *Urol Clin N Am* 14:551, 1987.
16. **Wheeler T**, Zimmerman T. Expulsive choroidal hemorrhage in the glaucoma patient. *Ann Ophthalmol*. 19: 165-6, 1987.

17. Goldfarb R, Pool J, **Wheeler T**. Isolated renal artery dissection secondary to medial degeneration. *J Urol* 139:346, 1988.
18. **Wheeler T**, Johnson E, Coughlin D, Greenberg S. The sensitivity of detection of asbestos bodies in sputa and bronchial washings. *Acta Cytologica* 32:647, 1988.
19. Neerhut G, **Wheeler T**, Cantini M., Scardino P. Salvage radical prostatectomy for radiorecurrent adenocarcinoma of the prostate. *J Urol* 140:544, 1988.
20. Scardino P, **Wheeler T**: Local control of prostate cancer with radiotherapy: the frequency and prognostic significance of positive post-irradiation prostate biopsy results. *Nat Cancer Inst Monogr* 7:95-103, 1988.
21. Meacham R, Mata J, Espada R, **Wheeler T**, Schum C, Scardino P: Testicular metastasis as the first manifestation of colon carcinoma. *J Urol* 140:621, 1988.
22. Rubenfeld S, **Wheeler T**: Thyroid cancer presenting as a hot thyroid nodule: report of a case and review of the literature. *Clin Exp Thyroidol* 1:41, 1988.
23. Truong L, Ansari M, Ansari S, **Wheeler T**, et al.: Acquired cystic kidney disease: occurrence in patients on chronic peritoneal dialysis. *Am J Kid Dis* 11:192, 1988.
24. Egawa S, Carter S, **Wheeler T**, Scardino P: Significance of hypoechoic lesions in the irradiated prostate. *J Endourol* 3:147, 1989.
25. Donovan DT, Levy ML, Furst EJ, Alford BR, **Wheeler T**, Tschen JA, Gagel RF. Familial Cutaneous Lichen Amyloidosis in Association With Multiple Endocrine Neoplasia Type 2A: A New Variant. *Henry Ford Hosp Med J*. 1989;37(3-4):147-50.
26. Shinohara K, **Wheeler T**, Scardino P: The appearance of prostate cancer on transrectal ultrasonography: Correlation of imaging and pathological examination. *J Urol* 142:76, 1989.
27. **Wheeler T**: Anatomical considerations in carcinoma of the prostate. *Urol Clin N Am* 16:623, 1989.
28. Scardino P, Shinohara K, **Wheeler T**, Carter S: Staging of prostate cancer, value of ultrasonography. *Urol Clin N Am* 16:713, 1989.
29. Egawa S, Carter S, **Wheeler T**, Scardino P: Ultrasonographic changes in the normal and malignant prostate after definitive radiotherapy. *Urol Clin N Am* 16:741, 1989.
30. Shinohara K, Scardino P, Carter S, **Wheeler T**: The pathologic basis of the sonographic appearance of the normal and malignant prostate. *Urol Clin N Am* 16:674-691, 1989.
31. Gagel R, Levy M, Donovan D, Alford B, **Wheeler T**, Tschen J: Multiple endocrine neoplasia type 2a associated with cutaneous lichen amyloidosis. *Ann Int Med* 111:802-806, 1989.
32. Truong L, Mody D, Cagle P, Jackson-York G, Schwartz M, **Wheeler T**: Thymic carcinoma: a clinicopathologic study of 13 cases. *Am J Surg Pathol* 14(2):151-166, 1990.

33. Greene D, Egawa S, Neerhut G, Flanagan W, Dunn J, **Wheeler T**, Scardino P: The distribution of residual cancer in radical prostatectomy specimens in stage A prostate cancer. *J Urol* 145:324-329, 1991.
34. Egawa S, Greene D, **Wheeler T**, Scardino P: The sonographic appearance of irradiated prostate cancer. *Br J Urol* 68:172-177, 1991.
35. Egawa S, Greene D, Flanagan W, **Wheeler T**, Scardino P: Transrectal ultrasonography in stage A prostate cancer: detection of residual tumor after transurethral resection of the prostate. *J Urol* 146:366-371, 1991.
36. Greene D, **Wheeler T**, Egawa S, Dunn J, Scardino P: A comparison of the morphological features of cancer arising in the transition zone and in the peripheral zone of the prostate. *J Urol* 146:1069-1076, 1991.
37. Greene D, Taylor S, **Wheeler T**, Scardino P: DNA ploidy by image analysis of individual foci of prostate cancer: a preliminary report. *Cancer Res* 51:4084-4089, 1991.
38. Greene D, **Wheeler T**, Egawa S, Weaver R, Scardino P: The relationship between clinical stage and histological zone of origin in early stage prostate cancer: a morphometric analysis. *Br J Urol* 68:499-509, 1991.
39. Egawa S, **Wheeler T**, Greene D, Scardino P: The detection of residual prostate cancer after radiotherapy by sonographically-guided needle biopsy. *Urology* 39: 358-363, 1992.
40. Egawa S, Greene D, **Wheeler T**, Scardino P: Unusual hyperechoic appearance of prostate cancer on transrectal ultrasonography. *Br J Urol* 69:169-174, 1992.
41. Egawa S, Carter S, **Wheeler T**, Scardino P: Sonographic monitoring of prostatic cancer after definitive radiotherapy. *Urology* 40:230, 1992.
42. Rosen M, Lapin S, Goldstone L, **Wheeler T**, Scardino P: Frequency and location of extracapsular extension and positive surgical margins in radical prostatectomy specimens. *J Urol* 148:331, 1992.
43. Bostwick D, Montironi R, Nagle R, Pretlow T, Miller G, **Wheeler T**: Current and proposed biologic markers in prostate cancer. *J Cell Biochem Suppl* 16H:65-67, 1992.
44. Ohori M, Scardino P, Lapin S, Seale-Hawkins C, Link J, **Wheeler T**: The mechanisms and prognostic significance of seminal vesicle involvement by prostate cancer. *Am J Surg Pathol* 17(12):1252-1261, 1993.
45. Ohori M, Shinohara K, **Wheeler T**, Aihara M, Wessels E, Carter S, Scardino P: Ultrasonographic detection of non-palpable seminal vesicle invasion: A clinicopathological study. *Br J Urol* 72:799-808, 1993.
46. Scardino P, Rogers E, Aihara M, Sariyuce O, **Wheeler T**: TURP for BPH: declining incidence and changing nature of incidental (stage A) prostate cancer (A summary of the presentation by E. Rogers at the South Central Section of the AUA). *Urology Times* 21:10, 1993.

47. Ohori M, **Wheeler T**, Greene D, Scardino P: Comparison of the pathologic features and DNA ploidy value of prostate cancers detectable by sonography and by palpation. *The Prostate* 23:10, 1993.
48. Greene D, Rogers E, Wessels E, **Wheeler T**, Taylor S, Santucci R, Thompson T, Scardino P: Some small prostate cancers are nondiploid by nuclear image analysis: correlation of deoxyribonucleic acid ploidy status and pathological features. *J Urol* 151:1301-1307, 1994.
49. Ostrowski M, **Wheeler T**: Paraganglia of the prostate: location, frequency, and differentiation from prostatic adenocarcinoma. *Am J Surg Pathol* 18:412-420, 1994.
50. Aihara M, Lebovitz R, **Wheeler T**, Kinner B, Ohori M, Scardino P: Prostate specific antigen and Gleason grade: an immunohistochemical study of prostate cancer. *J Urol* 151:1558-1564, 1994.
51. Aihara M, Ohori M, Wessels E, **Wheeler T**, Scardino P: Heterogeneity of prostate cancer in radical prostatectomy specimens. *Urology* 43:60-67, 1994.
52. Truong L, Ostrowski M, **Wheeler T**: Tamm-Horsfall protein in bladder tissue: morphologic spectrum and clinical significance. *Am J Surg Pathol* 18:615-622, 1994.
53. Ohori M, **Wheeler T**, Scardino P: The New American Joint Committee on Cancer and International Union Against Cancer TNM Classification of Prostate Cancer: clinicopathologic correlations. *Cancer* 74:104-114, 1994.
54. Greene D, **Wheeler T**: Clinical relevance of the individual prostate cancer focus. *Cancer Invest* 12(4):425-437, 1994.
55. Ohori M, Egawa S, Shinohara K, **Wheeler T**, Scardino P: Detection of microscopic extracapsular extension prior to radical prostatectomy for clinically localized prostate cancer. *Br J Urol* 74:72-79, 1994.
56. **Wheeler T**, Rogers E, Aihara M, Scardino P, Thompson T: Apoptotic index as a biomarker in prostatic intraepithelial neoplasia (PIN) and prostate cancer. *J Cell Biochem* 19:202-207, 1994.
57. Pindur A, Chakraborty S, Welch D, **Wheeler T**: DNA ploidy measurements in prostate cancer: differences between image analysis and flow cytometry and clinical implications. *The Prostate* 25:189-198, 1994.
58. Ohori M, Egawa S, **Wheeler T**: Nodules resembling nodular hyperplasia in the peripheral zone of the prostate gland. *J Urologic Pathol* 2:223-233, 1994.
59. Ohori M, **Wheeler T**, Dunn J, Stamey T, Scardino P: The pathologic features and prognosis of prostate cancer detectable with current diagnostic tests. *J Urol* 152:1714-1720, 1994.
60. Ohori M, Goad J, **Wheeler T**, Eastham J, Thompson T, Scardino P: Can radical prostatectomy alter the progression of poorly differentiated prostate cancer? *J Urol* 152:1843-1849, 1994.
61. **Wheeler T**, Lebovitz R: Fresh tissue harvest for research from prostatectomy specimens. *The Prostate* 25:274-279, 1994.

62. Aihara M, Truong L, Dunn J, **Wheeler T**, Scardino P, Thompson T: Frequency of apoptotic bodies positively correlates with Gleason grade in prostate cancer. *Human Pathol* 25:797-801, 1994.
63. Norberg M, Holmberg L, **Wheeler T**, Magnusson A: Five year follow-up after radical prostatectomy for localized prostate cancer – a study of the impact of different tumor variables on progression. *Scan J Urol Nephrol* 28:391-399, 1994.
64. Bostwick D, Burke H, **Wheeler T**, Chung L, Bookstein R, Pretlow T, Nagle R, Montironi R, Lieber M, Veltri R, Grizzle W, Grignon D: The most promising surrogate endpoint biomarkers for screening candidate chemopreventative compounds for prostatic adenocarcinoma in short-term phase II clinical trials. *J Cell Biochem* 19(Suppl):283-289, 1994.
65. Gagucas R, Brown R, **Wheeler T**: Verumontanum mucosal gland hyperplasia. *Am J Surg Pathol* 19:30-36, 1995.
66. Rogers E, Ohori M, Kassabian S, **Wheeler T**, Scardino P: Salvage radical prostatectomy: outcome measured by serum prostate specific antigen levels. *J Urol* 153:104-110, 1995.
67. Aihara M, Scardino P, Truong L, **Wheeler T**, Goad J, Yang G, Thompson T: The frequency of apoptosis correlates with the prognosis of Gleason grade 3 adenocarcinoma of the prostate. *Cancer* 75:522-529, 1995.
68. Aihara M, **Wheeler T**, Ohori M, Scardino P: Eterogeneita del carcinoma della prostata in campioni da prostatectomia radicale. *Urol Digest* 1995.
69. Ostrowski M, Brown R, **Wheeler T**, Green L, Schaffner D: Leu-7 immunoreactivity in cytologic specimens of thyroid lesions, with emphasis on follicular neoplasms. *Diag Cytopathol* 12:297-302, 1995.
70. Epstein J, Grignon D, Humphrey P, McNeal J, Sesterhenn I, Troncoso P, **Wheeler T**: Interobserver reproducibility in the diagnosis of prostatic intraepithelial neoplasia. *Am J Surg Pathol* 19:873-886, 1995.
71. Bjornsson B, Truong L, Cartwright J, Abrams J, Rutledge M, **Wheeler T**: Pelvic lymph node histiocytosis mimicking metastatic prostatic adenocarcinoma: association with hip prostheses. *J Urol* 154:470-473, 1995.
72. Ohori M, **Wheeler T**, Kattan M, Goto Y, Scardino P: Prognostic significance of positive surgical margins in radical prostatectomy specimens. *J Urol* 154:1818-1824, 1995.
73. Eastham J, Stapleton A, Gousse A, Timme T, Yang G, Slawin K, **Wheeler T**, Scardino P, Thompson T: Association of p53 mutations with metastatic prostate cancer. *Clin Cancer Res* 1:1111-1118, 1995.
74. Gilcrease M, Schmidt L, Zbar B, Truong L, Rutledge M, **Wheeler T**: Somatic von Hippel-Lindau mutation in clear cell papillary cystadenoma of the epididymis. *Hum Pathol* 26:1341-1346, 1995.
75. Leibman B, Dillioglugil O, **Wheeler T**, Scardino P: Distant metastasis after radical prostatectomy in patients without an elevated serum prostate specific antigen level. *Cancer* 76:2530-2534, 1995.

76. Gaudin P, **Wheeler T**, Epstein J: Verumontanum mucosal gland hyperplasia in prostatic needle biopsy specimens: a mimic of low grade prostatic adenocarcinoma. *Am J Clin Pathol* 104:620-626, 1995.
77. Arakawa A, Song S, Scardino P, **Wheeler T**: High grade prostatic intraepithelial neoplasia in prostates removed following irradiation failure in the treatment of prostatic adenocarcinoma. *Path Res Pract* 191:868-872, 1995.
78. Rogers E, Eastham J, Ohori M, Sariyuce O, Aihara M, **Wheeler T**, Scardino P: Impalpable prostate cancer: clinicopathologic features. *Br J Urol* 77:429-432, 1996.
79. Yang G, Stapleton A, **Wheeler T**, Truong L, Timme T, Scardino, Thompson T: Clustered p53 immunostaining: a novel pattern associated with prostate cancer progression. *Clin Cancer Res* 2:399-401, 1996.
80. Bostwick D, **Wheeler T**, Blute M, Barrett D, MacLennan G, Sebo T, Scardino P, Humphrey P, Hudson M, Fradet Y, Miller G, Crawford E, Blumenstein B, Mahran H, Miles B: Optimized microvessel density analysis improves prediction of cancer stage from prostate needle biopsies. *Urology* 48(1):47-57, 1996.
81. **Wheeler T**: The influence of irradiation and androgen ablation on prostatic intraepithelial neoplasia. *European Urol* 30:261-264, 1996.
82. Sakr W, **Wheeler T**, Blute M, Bodo M, Calle-Rodrigue R, Henson D, Mostofi F, Seiffert J, Wojno K, Zincke H: Workgroup 2: staging and reporting of prostate cancer – sampling of the radical prostatectomy specimen. *Cancer* 78(2):366-368, 1996.
83. Goto Y, Ohori M, Arakawa A, Kattan M, **Wheeler T**, Scardino P: Distinguishing clinically important from unimportant prostate cancers before treatment: value of systematic biopsies. *J Urol* 156:1059-1063, 1996.
84. Yang G, **Wheeler T**, Kattan M, Scardino P, Thompson T: Perineural invasion of prostate carcinoma cells is associated with reduced apoptotic index. *Cancer* 78(6):1267-1271, 1996.
85. Williams R, Stapleton A, Yang G., Truong L, Rogers E, Timme T, **Wheeler T**, Scardino P, Thompson T: Reduced levels of transforming growth factor β receptor type II in human prostate cancer: an immunohistochemical study. *Clin Cancer Res* 2:635-640, 1996.
86. Sutton M, Berkman S, Chen S, Block A, Dang T, Kattan M, **Wheeler T**, Rowley D, Woo S, Lerner S: Adenovirus-mediated suicide gene therapy for experimental bladder cancer. *Urology* 49:173-180, 1997.
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BOOK CHAPTERS:

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2. Coburn M, **Wheeler TM**: Evaluation of testicular biopsy in male infertility evaluation. In: *Infertility in the Male*. 2nd ed., Edited by Lipshultz LI, Howards S.S., St. Louis, MO: Year Book Medical Publishers, 1992.
3. **Wheeler TM**: Anatomy of the prostate and pathology of prostate cancer. In: *Comprehensive Textbook of Genitourinary Oncology*. Edited by Vogelzang NJ, Scardino PT, Shipley WU, Coffey DS, Baltimore: Williams & Wilkins, 1996, pp. 621-639.
4. Schwartz MR, **Wheeler TM**, Ramzy I: Cytopathology of endocrine organs. In: *Bloodworth's Endocrine Pathology*. 3rd Edition, Edited by Lechago J, Gould VE, Baltimore: Williams & Wilkins, 1996.
5. Laucirica R, Lechago J, **Wheeler TM**: Endocrine aspects of the male reproductive system. In: *Bloodworth's Endocrine Pathology*. 3rd ed., Edited by Lechago J, Gould VE, Baltimore: Williams & Wilkins, 1996.
6. Scardino PT, **Wheeler TM**, Kattan MW: Is cure for prostate cancer possible in those for whom it is necessary? In: *Renal, bladder, and prostate cancer an update* [The proceedings of the V Congress on Progress and Controversies in Oncological Urology (PACIOU V), held in Rotterdam, The Netherlands, October 1998], Edited by Kurth KH, Mickisch GH, Schoöder FH; The Parthenon Publishing Group, New York, 1999.

7. **Wheeler TM:** 36A. Anatomy of the Prostate and the Pathology of Prostate Cancer, In: *Comprehensive Textbook of Genitourinary Oncology*, Part V. Prostate Cancer, Section 36 Anatomy and Pathology of Prostate Cancer, Edited by Vogelzang NJ, Scardino PT, Shipley WU, Coffey DS, Philadelphia: Lippincott, Williams & Wilkins, 2nd Edition, 2000, pp. 587 - 604.
8. Ayala G and **TM Wheeler.** Anatomy of the Prostate and Pathology of Prostate Cancer, In: *Comprehensive Textbook of Genitourinary Oncology*, Part V. Prostate Cancer, Section 6 Anatomy and Pathology of Prostate Cancer, Edited by Vogelzang NJ, Scardino PT, Shipley WU, Debruyne FMJ, Linehan WM. Philadelphia: Lippincott, Williams & Wilkins, 3rd Edition, 2005, pp. 45-59.
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10. Alukal JP, Kheir M, **Wheeler TM:** Testicular biopsy in male infertility evaluation. In: *Infertility in the Male*. 4th ed., Edited by Lipshultz LI, Howards SS, Niederberger CG., Cambridge: Cambridge University Press, 2009.
11. Vladimir Mouraviev, **Thomas Wheeler**, and Thomas J. Polascik: Histological Trends and the Index Lesion in Localized Prostate Cancer. In: *Focal Therapy in Prostate Cancer*. Wiley and Sons Ltd: 2011
12. Olar A, **Wheeler TM:** Atypical Small Acinar Proliferation. In: *Prostate Cancer Diagnosis*. Springer: 2013
13. Lockyer M, **Wheeler TM:** Prostate cancer: Screening, surveillance, prognostic algorithms and independent pathologic predictive parameter. In: *Cancer Expert: Clinical Perspective*. John Wiley and Sons, Inc. 2014

INVITED LECTURES, PANEL MEMBER, VISITING PROFESSORSHIPS:

1. Fine Needle Aspiration of Prostate, presented at the Spring Meeting of the Texas Society of Cytology, 1984.
2. New Concepts and Methods in the Pathology of Prostatic Carcinoma, presented at Innovative Approaches to Urologic Problems, Houston, Texas, 1985.
3. Endocrine Pathology, presented at Pathology Board Review Course, Houston, Texas, 1986.
4. What to Expect From the Pathologist in the Evaluation of Bladder Cancer, presented at Innovations in Urologic Practice, Houston, Texas, 1986.
5. Fine Needle Aspiration Cytology of Breast and Prostate, presented at the Annual Cytopathology Review Course, Houston, Texas, 1987-1990.
6. Anatomy of the Prostate and the Biology of Prostate Cancer, presented at the American Urological Association sponsored meeting, *Ultrasound in Urology*, Houston, Texas, 1988.

7. Pathology and Patterns of Growth of Prostate Cancer: Information Gained From Whole-Mount Step Sections of the Prostate, presented at Transrectal Ultrasonography for Prostate Cancer, Houston, Texas, 1988.
8. Anatomy of the Prostate, Pathology and Patterns of Growth of Prostate Cancer, presented at Transrectal Ultrasonography of the Prostate, Houston, Texas, 1989.
9. New Concepts in the Pathology of Prostate Cancer, presented at Innovations in Urologic Practice, Houston, Texas, 1989.
10. What to Expect From the Pathologist's Report, presented at the Section on Bladder Cancer at Innovations in Urologic Practice, Houston, Texas, 1989.
11. Pathologic Features of Testicular Cancer and Carcinoma *In Situ*, presented at Innovations in Urologic Practice, Houston, Texas, 1989.
12. Fine Needle Aspiration of Prostate, presented at the Osler Cytopathology Board Review Course, Dallas, Texas, 1990.
13. Fine Needle Aspiration Cytology of Thyroid, presented at the Annual Cytopathology Review Course, Houston, Texas, 1986-1996.
14. Radical Prostatectomy: The Baylor Experience, presented at the Houston Society of Clinical Pathologists Annual Seminar, Houston, Texas, 1994.
15. Anatomic Considerations in Carcinoma of the Prostate, presented at the monthly meeting of the Houston Society of Clinical Pathologists, 1994.
16. Thyroid Fine Needle Aspiration Biopsy, presented at the monthly meeting of the Houston Society of Clinical Pathologists, 1995.
17. Visiting Professor, Baylor University Medical Center, Dallas, Texas 1993.
18. Participant/Speaker, Quantitative Pathology in Chemoprevention Trials: Standardization and Quality Control of Surrogate Endpoint Biomarker Assays for Colon, Breast and Prostate (NCI), San Diego, California, 1994.
19. Participant/Speaker, Prognostic Markers in Prostate Cancer (College of American Pathologists) Snowmass, Utah 1995.
20. Visiting Professor, Long Island Jewish Hospital, 1995.
21. Management of Carcinoma of the Prostate: Pros and Cons of Current modalities and New Paradigms.
22. Participant/Speaker, International Consultation on Prostatic Intraepithelial Neoplasia and Pathologic Staging of Prostate Cancer, Rochester, MN, November 1995.
23. Visiting Professor, Semipalatinsk Medical Institute and Affiliated Hospitals, Semipalatinsk, Kazakhstan, 1995, 1996.
24. Visiting Professor, American Hospital, Istanbul, Turkey, November 1996.

25. Visiting Professor, Baskent University Hospital, Ankara, Turkey, November 1996.
26. Mimics of Prostate Cancer, presented at the Texas Society of Pathologists Annual Meeting in Corpus Christi, Texas, January 1997.
27. Visiting Professor, University of Massachusetts Medical Center, Worcester, MA, March 1997.
28. Participant/Speaker, Annual Review Course, Wilford Hall USAF Medical Center, Lackland AFB, Texas, May 1998.
29. Thyroid FNA: Thyroid FNA, Value & Diagnostic Limitations, presented at the Section on Pathology at the Texas Medical Association 130th Annual Session, Houston, Texas, May 1998.
30. Contemporary Cytology and Histopathology of the Thyroid, presented at the Update on Medical and Surgical Management of Thyroid Disease, Houston, Texas, June 1998.
31. Morphological Issues in Prostate Cancer and Their Effect in Prognosis, presented at the International Academy of Pathologists, 24th Annual Scientific Meeting, Sydney, Australia, June 1998.
32. Significance of Gleason Grading and Prostate-Specific Antigen, presented at the Management of Carcinoma of the Prostate: Pros and Cons of Current Modalities and New Paradigms, Long Beach, California, July 23–24, 1998.
33. Morphologic Features in Prostate Carcinoma and Their Effects on Prognosis, presented at Texas Society of Pathologists, Young Pathologists' Retreat, Galveston, Texas, August 1999.
34. Treatment Effects on Prostate Cancer and PIN, presented at the Japanese Urological Association annual meeting in Sapporo, Japan, June 2000.
35. Mimics of Prostate Cancer, presented at Kitasato University, Japan, June 2000.
36. Annual Broder's lecturer at Scott & White Clinic, Temple, TX, September 2000.
37. Morphological determinants of Prostate Cancer Prognosis, Texas Society of Pathologists Annual meeting, Houston, TX 2003.
38. Radical Prostatectomy presented at the USCAP Long Course, Washington, D.C., 2003.
39. The Complex Pathology of Human Prostate Cancer, Therapeutic Targeting of Human Prostate Cancer, Tucson, AZ, 2004.
40. Visiting Professor, University of Arizona, Tucson, AZ, Spring 2004.
41. International Society of Urological Pathology Panelist on Gleason Grading at USCAP, Feb. 2005.
42. Prognostic aspects of the morphological features of prostate cancer, Grand Rounds Guest Lecturer, University of Texas-Health Science Center, Houston, TX, May 2005.
43. Biospecimen Collection, Processing and Storage, Quality Assurance, Quality Control, and Operational Issues Including Bioinformatics Workshop, Invited Participant, National Cancer Institute, Washington, DC, July 2005.

44. Panel Moderator, Genitourinary Pathology Proffered Papers at the USCAP, Feb. 2006.
45. “Brain Trust” on Prostate Cancer Imaging, Panel Moderator, Pathology Section, AdMeTech Corporation, Bethesda, MD, March 2006.
46. Visiting Professor, University of Southwestern Medical Center, Dallas, TX, March 2006.
47. Morphological Features of Prostate Cancer and Effects on Prognosis, presented at North Texas Society of Pathologists meeting, Dallas, TX, March 2006.
48. ASCO/CAP Technology Assessment on HER2 Testing, Panel Member, ASCO, Alexandria, VA, March 2006.
49. Micropapillary and Small Cell Cancer – Rare Variants or Variations on a TCC Theme?, presented at 14th Innovations in Urologic Practice, BCM, Santa Fe, NM, September 2006.
50. Introduction to Prostate Anatomy and Disease States (Benign and Malignant), presented at 2006 Annual Society for Basic Urologic Research meeting, Phoenix, AZ, November 2006.
51. New Vistas in Pathology, presented at TX US TOO Prostate Cancer Group Monthly Meeting, Houston, TX, January 2007.
52. Issue in Anatomic Pathology Reporting, Keynote Speaker at PowerPath Users Group Meeting, San Diego, CA, May 2007.
53. Focal Therapy: The Pathologist’s Perspective, presented at the First International Workshop on Focal Therapy and Imaging of Prostate Cancer, Durham, NC, February 2008.
54. What are the Pathological Features of Low Risk Cancer Suitable for Focal Therapy?, presented at the Society of Urologic Oncology Annual meeting, Bethesda, MD, December 2008.
55. Consensus Conference on Prostate Imaging, speaker and moderator at AdMeTech meeting, Bethesda, MD, January 2009.
56. Clinical Pathologic Associations in Prostate Cancer, presented at Baylor College of Medicine, Department of Surgery Grand Rounds, Houston, TX, January 2010.
57. Getting That First Job, presented at Texas Society of Pathology Annual Meeting, Galveston, TX, January 2010.
58. Clinical Pathologic Associations in Prostate Cancer, presented at TX US TOO Prostate Cancer Group Monthly Meeting, Houston, TX, February 2010.
59. Pathologic Basis for Unifocal and Unilateral Prostate Cancer, presented at Third International Symposium on Focal Therapy and Imaging of Prostate and Kidney Cancer, Washington, DC, February 2010.
60. The Visible Pathologist, presented at CAP ’12- The Pathologist’s Meeting, San Diego, CA, September 2012. CAP’ 13- The Pathologist’s Meeting, Orlando, FL, October 2013. CAP ’14- The Pathologist’s Meeting, Chicago, IL, September 2014.

61. Prostate Anatomy, Benign Conditions; Precursors and Mimics of Cancer, presented at the International Pathology Symposium, Riyadh, Saudi Arabia, November 2012.
62. Prostate Cancer – Diagnosis, Grading, Staging and Important Variants, presented at the International Pathology Symposium, Riyadh, Saudi Arabia, November 2012.
63. Prostate Cancer – The role of the Pathologist, presented at CAP AP3 program in Prostate Pathology, Chicago, Illinois, April 2014
64. Important Issues in Prostate Cancer Pathology, presented at the Department of Pathology Grand Rounds- Medical College of Georgia, Augusta, Georgia, June 2016

Exhibit E



August 14, 2020

Daniel Adams
Larson King, LLP
30 East Seventh Street
St. Paul, Minnesota 55101

Subject: Expert Report in the matter of *James LaFrentz and Ila LaFrentz v. 3M Company, et al. (regarding 3M Company)*

Dear Mr. Adams:

I have prepared the attached report in response to the request for my retention in the James LaFrentz matter made on August 5, 2020. The first set of case materials was received for my review on August 5, 2020.

It is my understanding that I have been retained by counsel on behalf of 3M to offer my opinions concerning the regulatory standards and requirements over time related to respirator use, as well as respirator use with asbestos, employer responsibility, Mr. LaFrentz's asbestos exposure potential, and the historical evolution of knowledge of industrial hygienists regarding asbestos.

My opinions are reflected in the attached report. I have also provided a brief description of my background and areas of expertise relating to this matter, including a discussion of my knowledge and experience in the field of industrial hygiene.

Respectfully,

A handwritten signature in black ink that reads "jennifer sahmel". The signature is fluid and cursive, with "jennifer" on the top line and "sahmel" on the bottom line.

Jennifer Sahmel, MPH, CIH, CSP, FAIHA
Managing Principal Scientist

Attachments

Expert Report of
Jennifer Sahmel, MPH, CIH, CSP, FAIHA

Expert Report in the matter of *James LaFrentz and Ila LaFrentz v. 3M Company, et al. (regarding 3M Company)*

Prepared for:

Daniel Adams
Larson King, LLP
30 East Seventh Street
St. Paul, Minnesota 55101

Prepared by:

Jennifer Sahmel
Insight Exposure and Risk Sciences
1790 38th Street, Suite 100
Boulder, CO 80301

August 14, 2020

I. EXPERIENCE

I am a Certified Industrial Hygienist (CIH) [American Board of Industrial Hygiene (ABIH)] and a Certified Safety Professional (CSP) [Board of Certified Safety Professionals (BCSP)] with over 23 years of experience in human health exposure, risk assessment, and workplace health and safety. I am also a Fellow of the American Industrial Hygiene Association (FAIHA) and a Research Fellow of the Exposure Science and Sustainability Institute at the University of Minnesota. I have experience in exposure assessment methodologies, the history and state of the science for industrial hygiene over time, health risk decision making, exposure monitoring, and safety management systems. I have conducted chemical-specific exposure assessments for a wide range of substances, including asbestos, acrylamide, benzene, carbon monoxide, silica, diesel exhaust, solvents, vinyl chloride, phthalates, talc, lead, and cadmium.

In my current position, I am a Managing Principal Scientist of Insight Exposure and Risk Sciences. Insight is dedicated to addressing scientifically complex and technical questions related to human health and safety, including exposure and risk assessment. I specialize in the disciplines of industrial hygiene, exposure science, occupational and consumer exposure assessment, and exposure reconstruction. This includes but is not limited to dermal, inhalation, and ingestion exposure potential to agents found in consumer products, the ambient air, industrial materials and other media.

My publications include a comprehensive review paper on exposure reconstruction methods for human health risk assessment (Sahmeh et al. 2010), as well as a review of the history and evolution of knowledge of industrial hygienists regarding asbestos (Barlow et al. 2017). I have specifically published on the topics of asbestos bystander and take home exposure potential, fiber settling, and the epidemiology of background exposures (Donovan et al. 2011; Sahmeh et al. 2014a; Sahmeh et al. 2016; Sahmeh et al. 2015a; Glynn et al. 2018). I have also published papers addressing the use of industrial hygiene principles, exposure assessment, and exposure reconstruction for vinyl chloride, benzene, carbon monoxide, talc, lead, and a number of other chemicals (Paustenbach et al. 2010; Sahmeh et al. 2009b; Williams et al. 2011; Sahmeh et al. 2014b; Sahmeh et al. 2015c; Avens et al. 2018; Burns et al. 2019).

I am active in the industrial hygiene scientific community in the United States and internationally, and have served on both International Standards Organization (ISO) and American National Standards Institute (ANSI) committees, including the ANSI Z88 Committee between 2000 and 2017. I was elected to the American Industrial Hygiene Association's (AIHA's) Board of Directors

for 2014-2017. I am also a past Chair of the AIHA's Exposure Assessment Strategies Committee, and the founder of the committee's working group on dermal exposure assessment. I am a co-author for the committee's text on exposure assessment strategies (Ignacio et al. 2006; Sahmeh et al. 2006a; Sahmeh et al. 2006b; Sahmeh et al. 2015b; Boeniger et al. 2015) and the committee's occupational exposure mathematical modeling textbook (Keil et al. 2009; Sahmeh et al. 2009a). Additionally, I have been an instructor for multiple professional development courses on exposure assessment for the AIHA's annual conference (AIHCE) for the past nine years, including the topics of exposure assessment strategies, exposure assessment modeling, dermal exposure assessment, and professional judgment in exposure assessment. I was also an instructor for the committee's Exposure Assessment Symposia in 2003, 2005, and 2009.

I have been invited to give presentations and workshops on exposure assessment at NASA's annual Occupational Health Conference, the Navy and Marine Corps Public Health Conference, the China-U.S. Occupational Health Symposium, the National Institute for Occupational Safety and Health, the Colombian Society for Occupational Hygiene, the California Industrial Hygiene Council (CIHC), and multiple local geographic chapters of the AIHA. I am a current Co-Chair of the NIOSH-facilitated National Occupational Research Agenda (NORA) Cross-Sector Council for Immune, Infectious, and Dermal Disease. NORA is a partnership program to stimulate innovative research and improved workplace practices, in which diverse parties collaborate to identify the most critical issues in workplace safety and health and then make progress on those issues through information sharing, collaboration, and enhancing dissemination and implementation of evidence-based practices. I was also a member of the NIOSH Expert Workgroup on Skin Notations and Dermal Exposure Issues (2005-2009), which was charged with assisting the agency in updating and expanding the NIOSH skin notations and provided expert guidance to NIOSH on dermal exposure issues.

While working in the U.S. EPA's Office of Pollution Prevention and Toxics (OPPT) in their Chemical Engineering Branch, I reviewed and contributed to occupational health and exposure assessment research and standards for the management of numerous national programs including the Toxics Substances Control Act, the Pollution Prevention program, Green Engineering, Design for the Environment, National Program Chemicals, Voluntary Children's Chemical Evaluation Program (VCCEP), and counter-terrorism activities. I worked with numerous EPA risk assessment models to evaluate a wide variety of exposure scenarios.

My professional education, training, and background are consistent with the topics and areas of scientific study about which I will testify. My curriculum vitae, which presents my background and training, is included as Attachment A to this report.

II. MATERIALS REVIEWED IN FORMULATING OPINIONS

My opinions are based on my professional qualifications, work experiences, and knowledge of industrial hygiene, exposure assessment, and related fields. My views are also based on information that is related to this case. In the process of preparing this report, I have received the following case-specific documents:

1. Plaintiffs' Second Amended Complaint
2. Deposition transcript of James LaFrentz, dated November 14, 2018
3. Deposition transcript of James LaFrentz, dated November 15, 2018
 - a. Exhibits to the depositions of James LaFrentz
4. Plaintiffs' Third Supplemental Rule 26(A) Disclosure
5. Expert Report of Darell Bevis
6. Expert Report of Ken Garza

I have also reviewed and relied upon published papers, reports, regulatory materials and textbooks on industrial hygiene, toxicology, medicine, and standard practices associated with asbestos use available in the open literature. Specific references cited in my opinions are listed at the end of this report.

My opinions and the basis for these opinions are provided in Sections IV and V of this report. I express these to a reasonable degree of scientific certainty. It is my understanding that discovery is ongoing in this matter, and therefore I reserve the right to supplement this report in the event that additional information becomes available. My time spent in the preparation of this opinion letter and reviewing documents to formulate my opinions as well as for any deposition or trial testimony I may be called upon to give will be billed at a rate of \$395 per hour.

III. CASE-SPECIFIC INFORMATION

General Case Summary

Mr. James Benjamin LaFrentz was born on November 24, 1944, and was reportedly diagnosed with mesothelioma in June 2018, at the age of 73 (LaFrentz Vol. I: p. 24). He reported that he had previously been diagnosed with kidney cancer in 1994 (LaFrentz Vol. 2: p. 11). He testified that he began smoking when he was 15 or 16, and recalled smoking “mainly Marlboro” brand cigarettes (LaFrentz Vol. I: p. 146, l. 18). He indicated that he smoked one or two cigarettes per day in high school, and then as an adult smoked “maybe a pack a day” of Marlboro Reds or Marlboro Lights; he never recalled smoking Kent cigarettes (LaFrentz Vol. I: p. 147, l. 21; p. 148).

Mr. LaFrentz testified that he was a member of the International Association of Machinist and Aerospace Workers while employed as a machinist at General Dynamics (LaFrentz Vol. I: p. 165). He also believed that he “had to be a member of some kind of steamfitters union while [he] worked” one summer as an apprentice (LaFrentz Vol. I: p. 166). He did not recall ever receiving any education or warnings from the steamfitters union regarding the hazards of asbestos (LaFrentz Vol. I: p. 175).

Mr. LaFrentz was not aware of any claims that had been submitted to bankruptcy trusts (LaFrentz Vol. I: p. 192-193).

Summer Employment During High School (summers from 1960 or 1961 to 1963)

Mr. LaFrentz testified that he worked in the summers during high school in Austin, Texas, and stated that before 1963, he “cleaned up construction sites” on commercial jobs including “sheetrock and lumber and trash” and indicated that he “was the clean-up kid” (LaFrentz Vol. I: p. 35, l. 24; p. 36, l. 19, 22; p. 37). He believed that the project involved remodeling rather than new construction (LaFrentz Vol. I: p. 37). He did not know if he was exposed to asbestos during this work (LaFrentz Vol. I: p. 37-38).

He also recalled that “one year [he] worked as an apprentice steamfitter” and believed that this was the following summer after the construction site job (LaFrentz Vol. I: p. 35, l. 24-25; p. 36, l. 1-2; p. 38). During this employment, he stated that he “helped one guy” and recalled that they were “redoing piping in the basement of an unoccupied hospital” (LaFrentz Vol. I: p. 38, l. 9-10). He indicated that the work he did was consistent with an apprentice, and that he would “put

goop on pipes and [screw] them in and all the old pipes out" (LaFrentz Vol. I: p. 38, l. 20-21). He did not recall if they took any insulation off of the piping systems they removed (LaFrentz Vol. I: p. 168). He agreed that "the whole area was always dusty" (LaFrentz Vol. I: p. 170). He did not recall whether he wore any type of dust mask while performing this work (LaFrentz Vol. I: p. 170).

He testified that he worked "one year [he] worked with the Texas Highway Department on the road crew" (LaFrentz Vol. I: p. 36, l. 1-2). He recalled that they "threw out and patched highways with asphalt" and "cleaned brush, picked up trash" (LaFrentz Vol. I: p. 39, l. 14-15).

Army Reserves/National Guard/Texas National Guard/Air Force Reserves (November or December 1964 to 1978)

Mr. LaFrentz testified that he was drafted in 1964 and reported to the Army National Guard in Camp Mabry in Austin, Texas (LaFrentz Vol. I: p. 40). He was later sent to Fort Bragg, North Carolina, and then Fort Lee, Virginia (LaFrentz Vol. I: p. 49). Following basic training, he recalled that he was in the reserves in the Texas National Guard and served in a "quartermaster's unit" which was "dealing with food and rations" (LaFrentz Vol. I: p. 50, l. 14, 17). He later became a helicopter mechanic and worked at Camp Mabry and Bergstrom Air Force Base or the Austin City Airport (LaFrentz Vol. I: p. 51). He also recalled working as the supervisor of a construction unit at La Crosse, Wisconsin, during his first year in Ohio (LaFrentz Vol. I: p. 52).

After moving back to Texas in 1978, Mr. LaFrentz stated that he joined the Air Force Reserves, and served in the reserves until 1991 (LaFrentz Vol. I: p. 52). He recalled that for the first two years, he was a machinist, and subsequently transferred and was accepted into intelligence; he stated that he then finished the last ten years of his service in the Air Force Intelligence, which involved providing intelligence briefings to flight crews (LaFrentz Vol. I: p. 53). Mr. LaFrentz testified that while he was working as a machinist in the reserves at Carswell Air Force Base, he "ran a lathe" and would get "called on to go out and take screws out of the panels in the aircraft" when they were "buggered up"; he described that they would take the old screws out and put new screws in (LaFrentz Vol. I: p. 163, l. 21-23; p. 164).

While working in intelligence, he testified that he would go "two, three weeks two or three times a year to some kind of an exercise. Turkey, Greece, Germany"; he recalled that he went to Incirlik, Turkey (LaFrentz Vol. I: p 160, l. 4-6).

Expert Report of
Jennifer Sahm, MPH, CIH, CSP, FAIHA
In the matter of LaFrentz
August 14, 2020

Stereo Installation (1964-1970)

Mr. LaFrentz reported that he had a job installing “two-way radio systems in the trucks of the district supervisors” at the Texas Highway Department (LaFrentz Vol. I: p. 44, l. 12-13). He also recalled that he “installed eight-track stereos in cars” from approximately 1967 to 1970 for “a couple of years” (LaFrentz Vol. I: p. 41, l. 12-13, 24; p. 42).

Farming (Father-in-Law’s Farm) (approximately 1970 or 1971 to 1978)

Mr. LaFrentz testified that he and his wife moved to Ohio for approximately five years after his father in law was injured to help him with his farm (LaFrentz Vol. I: p. 43-45).

Mobile Home Construction (1970-1971)

Mr. LaFrentz testified that he got a job in Bryan, Ohio, for approximately “a year and a half, two years” in which he was “working at a mobile home company the built mobile homes from... scratch” (LaFrentz Vol. I: p. 45, l. 19-20). He recalled that he did “plumbing, ran waterlines, helped with drywall... cleaned up the area” (LaFrentz Vol. I: p. 46, l. 2-3). He believed that he was present when they put insulation in the walls (LaFrentz Vol. 2: p. 144).

Aero (1971 or 1972-1978)

Mr. LaFrentz testified that he worked for the Aero Corporation from approximately 1971 or 1972 to 1978 as a machinist (LaFrentz Vol. I: p. 47). He recalled that he “ran a mill, a lathe” in the machine shop and did not typically visit other areas of the facility (LaFrentz Vol. I: p. 47, l. 10, p. 48). He described that the products being manufactured were “precision air tools” that were “used in surgery” (LaFrentz Vol. I: p. 47, l. 15, 18).

Machine and Lathe Operation (1978)

Mr. LaFrentz recalled that he moved back to Texas in 1978, and worked for a company for about a year where he was a “lathe operator” involving “big round blocks of metal” (LaFrentz Vol. I: p. 48, l. 13-14).

General Dynamics Corporation/Lockheed Martin (1979 – 2005)

Mr. LaFrentz testified that he went to work for General Dynamics at Carswell Air Force Base in Fort Worth, Texas, in 1978 or January 1979 (LaFrentz Vol. I: p. 55-56, 121-122). He recalled that the facility was building F-16 aircraft as well as some F-111 aircraft for the U.S. Air Force (LaFrentz Vol. I: p. 56-58). He believed that the aircraft built at the facility were built in accordance with U.S. Government military specifications (LaFrentz Vol. I: p. 126). He agreed that the facility where he worked was known as Air Force Plant Number 4, and was approximately a mile long, and he described that the building had “more or less two stories” to “facilitate the overhead crane” and that the building was 100 to 150 feet high (LaFrentz Vol. I: p. 114-115, Vol. 2: p. 149). He believed that the parts fab area where he specifically worked was “maybe 200 foot by 200 foot” (LaFrentz Vol. 2: p. 150).

He stated that he started as a drill press operator in the “parts fab department” with 30 to 40 other workers, and believed that he worked in this department for “probably a little over three years” from approximately 1979 to 1981 or 1982 (LaFrentz Vol. I: p. 58, l. 9, p. 59, l. 7, p. 87, 129; Vol. 2: p. 147). As part of this job he recalled that his duties included “basically anything that needed to be drilled, [he] would drill it. [He] drilled speed brakes out of raw aluminum. [He] drilled coupons for testing” and generally “drilled mostly anything” (LaFrentz Vol. I: p. 59, l. 15-18; Vol. 2: p. 152-153). He also recalled drilling some brass parts and some steel (LaFrentz Vol. 2: p. 153). He recalled using a half-inch drill bit (LaFrentz Vol. 2: p. 158). He described that a “coupon” was “the honeycomb” and “came in three different varieties” (LaFrentz Vol. I: p. 59, l. 25; p. 60, l. 1). Regarding the coupon or honeycomb, he indicated that “one was a panel and one was a strip” and that “the panels were composite material on top of a metal plate” (LaFrentz Vol. I: p. 60, l. 3-4). He later agreed that there were three different types of coupons: honeycomb, panel, and strip, but also agreed that coupon and honeycomb were the same (LaFrentz Vol. I: p. 131). Later still, he testified that Honeycomb, panel, and strip were different shapes (LaFrentz Vol. 2: p. 113). He stated that he “dealt with a honeycomb-type of a panel”, and that he also “dealt with a panel that had metal base on it” and that he “dealt with a strip of that panel” (LaFrentz Vol. 2: p. 114, l. 21-23; Vol. 2: p. 164). He agreed that there was a document produced as an exhibit that addressed the use of adhesive in the panels (LaFrentz Vol. 2: p. 162).

Mr. LaFrentz described a honeycomb panel as a “quarter inch of material across the top and then a wafered-type center and then this panel or this same type of composite material on the bottom”; he recalled that the dimensions of most of the honeycomb panels he worked on were “eight by ten by inch and a half, inch and a quarter thickness for the panel” (LaFrentz Vol. I: p.

131, l. 17-20, 23-24). He later estimated the thickness of the panels as approximately 5/16ths of an inch (LaFrentz Vol. I: p. 133). He recalled that the look of the composite material did not change during the approximately three-year period he performed work with the coupons, but he did not know if the chemical composition ever changed (LaFrentz Vol. I: p. 132-133). He testified that the strip coupons he recalled were “probably 11 by one and a half by the thickness” (LaFrentz Vol. I: p. 134, l. 3-4). He recalled that the composite strips were “a yellow-ish color” and had different colors (LaFrentz Vol. 2: p. 120).

He agreed that the coupons were test panels for combat aircraft and later stated that he believed they were used for strength testing (LaFrentz Vol. I: p. 116, 126). He recalled that on the panels, they “drilled the four corners so they could stretch them and see what it took to break them”; he stated that the “strip was … basically the same thing, but it was just more or less composite-type material” that they “drilled at each end for them to test” (LaFrentz Vol. I: p. 60, l. 5-6, 9-11, 13-14, Vol. 2: p. 115-116). After his work as a drill press operator, Mr. LaFrentz testified that he became an “NC machinist” for approximately two years, and recalled that in this position he worked on “three and a five-axis machine milling and drilling and everything that needed to be done to that particular part” (LaFrentz Vol. I: p. 60, l. 21-23).

Regarding his work with the “coupons” or honeycomb, Mr. LaFrentz testified that “they would bring them out in a plastic bin” and “there may [have been] 20 or 30 or so in that bin” (LaFrentz Vol. I: p. 65, l. 8-9, 11-12). He described that he “might have to do this for two days” and then he “might… not have another bin come out for a month” (LaFrentz Vol. I: p. 65, l. 12-13). He recalled if the coupon was a single strip, he would have “two holes to drill and clean up” and “that would take from start to finish probably 30 to 45 minutes” (LaFrentz Vol. I: p. 65, 66, l. 3-6). He later testified that if it was “a strip panel, it had two holes” and would take “probably 20, maybe 30 minutes at the most” from start to finish to drill, sand, and deburr the panels each time (LaFrentz Vol. 2: p. 168). He further explained that “if it was a panel that was… [a] metal panel that had four holes in it, it would probably take 30, 40 minutes” and finally, “if it was a honeycomb panel, it would take about 15, 20 minutes” (LaFrentz Vol. 2: p. 168, l. 11-17).

He testified that he drilled these panels “off and on” during the three years that he worked as a drill press operator, and did not ever drill them again once he was no longer a drill press operator (LaFrentz Vol. I: p. 66, l. 20). He believed that during this three-year period, he could have drilled “maybe a thousand” of the coupons or panels and stated that he knew “there was quite a few” (LaFrentz Vol. I: p. 67, l. 10, p. 113; Vol. 2: p. 165-166). He later stated that it would take him

“around 15 minutes to 25 minutes” to clean up after he had drilled the panels, or around 30 minutes to an hour to clean his table, fixture, and the floor (LaFrentz Vol. 2: p. 118).

In describing the drilling process of the coupons or panels, he stated that, “if it was a larger panel, which would be something about the size of a piece of paper, it had four holes and it had a fixture” (LaFrentz Vol. I: p. 68, l. 15-17). He agreed that this drilling process would be dusty because he could not use any dust-suppression solution on the panels (LaFrentz Vol. I: p. 69). He also recalled that there was an odor associated with drilling the panels, and it “smelled like something was burning up” (LaFrentz Vol. I: p. 70, l. 7-8). He also described that the drilling process was “always leaving, like, burrs around the hole and the engineers wanted them smooth so they could test them”, so he “would have to take and either use the little belt sander we had there to kind of run over it or use the air hand sander” which “had a little disc pad on the end of it” (LaFrentz Vol. I: p. 70, l. 11-17). He also described that he used a “one inch” belt sander and that he would also use an air powered hand drill with a two-inch disc (LaFrentz Vol. 2: p. 117). He further recalled that sometimes he would use a “whirligig” which was “just a little handle that you whipped around inside the hole” (LaFrentz Vol. I: p. 71, l. 19-22). He stated that after he finished drilling the coupon, he would “put that one in the little plastic bin” and “picked up the next one” (LaFrentz Vol. I: p. 73, l. 2-3). He recalled that each little plastic bin held between eight and 14 parts (LaFrentz Vol. 2: p. 118-119). He then recalled that he would clean up (LaFrentz Vol. I: p. 73).

When asked about the process of cleaning up after drilling a bin of coupons, Mr. LaFrentz testified that he would “have to turn around and get ... kind of a desk brush”, which he described was a “long-handled brush” to sweep up his desk and the floor; he also believed that sometimes the material “would be stuck in the fixture” so he would have to “get the air hose out and blow the air hose over the fixture to clean it up” and recalled that this process would be dusty (LaFrentz Vol. I: p. 88, l. 13-20).

Mr. LaFrentz believed that he was exposed to asbestos during his work at General Dynamics because of documentation related to air monitoring that was performed in his “work area” (LaFrentz Vol. I: p. 64, l. 3; LaFrentz Exhibit Plaintiff 2).

Following Mr. LaFrentz’s work in machining, he testified that he “moved into special program security” and that in this position, he “worked in programs that had to be cleared by the government, and basically kept all of the documentation, the facilities, and the access list secured” (LaFrentz Vol. I: p. 61, l. 8-11).

- Workplace Air Sampling

Mr. LaFrentz reported that he complained to his management regarding the conditions of his work, and called the “safety engineer” about it (LaFrentz Vol. I: p. 82, 83, l. 5). He recalled that her name was B.J. Hallstein, and that when he contacted her, she set up a time to “[test] the air while [he] was drilling” (LaFrentz Vol. I: p. 84). He stated that he gave her a copy of the results in a “little document” that he kept until the time of his deposition; he did not recall the working conditions of his job changing after receiving the results (LaFrentz Vol. I: p. 84, l. 10, p. 85). He indicated that the report stated the contaminant being evaluated was “asbestos” and that there was a concentration of “28.8 fibers per centimeter” (LaFrentz Vol. I: p. 91, l. 8-9). He recalled that he was working on a strip with two holes at the time of the air sampling (LaFrentz Vol. 2: p. 121).

He stated that Ms. Hallstein had “no comment about” whether it was safe or not safe to be drilling and sanding the coupons, and provided “no instructions” regarding whether to continue wearing the same respiratory protection; he did not recall anyone telling him to change his work practices after the air sampling that was performed (LaFrentz Vol. I: p. 86, l. 2; Vol. 2: p. 159). Mr. LaFrentz testified that he personally became aware of what asbestos was “back in ’95, 6, somewhere like that” (LaFrentz Vol. I: p. 93, l. 13-14).

- Respiratory Protection

Mr. LaFrentz testified that during the coupon drilling process, he “had a mask on” which he described as a “dust mask” that he “got from the parts man” (LaFrentz Vol. I: p. 72, l. 7, p. 73). He stated that he was not aware of any policies that required him to use a dust mask while performing the coupon drilling work (LaFrentz Vol. I: p. 74). He did not recall whether he had a dust mask on the very first time he started drilling (LaFrentz Vol. I: p. 74). He stated that he was first prompted to request a dust mask for this work because he was “trying to get away from all the black dust and smell”; he later described a “black fog” (LaFrentz Vol. I: p. 74, l. 25 – p. 75, l. 1; Vol. 2: p. 168). He indicated that he would wear the mask “all the time”(LaFrentz Vol. I: p. 80, l. 17).

Mr. LaFrentz recalled that when he asked for the dust mask, he went to a parts cage about “50 feet or so” from where he was working (LaFrentz Vol. I: p. 77, l. 5). He recalled that they “took a paper mask” out of a “four by four by six cardboard box” and handed it to him (LaFrentz Vol. I: p. 77, l. 25; p. 78, l. 1). He believed that the mask “was a 3M dust protector” and that it “was 8710” (LaFrentz Vol. I: p. 78, l. 4, 7). He recalled that the mask “was kind of whitish-gray with two yellow

bands on it" and had metal across the nose; he did not recall if anything was written on the mask (LaFrentz Vol. I: p. 78, l. 9-10). He reported that he did not have any facial hair during that time or ever (LaFrentz Vol. I: p. 78-79). He believed that he wore the same mask during the three years he was a drill press operator (LaFrentz Vol. I: p. 81). He recalled that "most of the time", he would wear the same mask all day (LaFrentz Vol. I: p. 82, l. 3). He also recalled that "sometimes" he would wear the same respiratory protection once he became a machinist (LaFrentz Vol. I: p. 86, l. 20). He later clarified that it was "probably a week until [he] got the mask" after he started drilling the panels (LaFrentz, Vol. 2: p. 106, l. 8).

Mr. LaFrentz testified that he did not ever see an instruction sheet with the 3M 8710, or any product warnings, literature, brochures, or advertisements (LaFrentz Vol. 2: p. 108).

- Workplace Safety

Mr. LaFrentz testified that while he was working in "parts fab", there was a 30-minute safety meeting every "Monday morning or Friday morning"; he did not recall asbestos or dust being discussed at these meetings (LaFrentz Vol. I: p. 95, l. 4-5). He recalled that he was required to get a physical exam and x-rays before he started working at General Dynamics, but did not require ever doing any x-rays again while he worked there (LaFrentz Vol. I: p. 96). He recalled that he was issued safety goggles, but testified that he was not provided with any type of work uniform (LaFrentz Vol. 2: p. 151). He reported that he would not get an apron "unless [he] knew it was going to be a real dirty job" (LaFrentz Vol. 2: p. 152). He believed that General Dynamics "had a pretty good safety record" (LaFrentz Vol. I: p. 98, l. 7). He indicated that he did not have in his possession any manuals or newsletters from the time of his employment (LaFrentz Vol. I: p. 123).

IV. OVERVIEW OF OPINIONS

- 1) The 3M respirator model 8710 identified by Mr. LaFrentz was not an asbestos-containing product and did not add to particle or asbestos exposure potential through its use. Respiratory protection can only serve to reduce exposure to airborne contaminants, especially when worn and used in conjunction with a properly administered respiratory protection program as specified by ANSI Z88.2 and OSHA 1910.134.
- 2) State and Federal guidance, standards, and laws relating to appropriate use of respiratory protection have been in place throughout much of the past century. These standards emphasize the hierarchy of controls and the use of respiratory protection only in certain instances and as a last resort following the implementation of other controls, such as ventilation, engineering controls, and work practice controls.
- 3) The applicable regulations and standards clearly state the responsibility of employers to implement and maintain an appropriate worker protection program, including a respiratory protection program with the necessary elements as set forth in OSHA Section 1910.134 if respirators will be used in the workplace.
- 4) According OSHA 1910.93a (1972), the class of respirators which includes the 3M 8710 respirator was approved for use with airborne particulates, including asbestos, and provided protection up to 10 times the OSHA ceiling or 8-hour TWA permissible exposure limit for asbestos when used appropriately within an employer-established respiratory protection program, as required by law.
- 5) Industrial hygiene knowledge regarding asbestos has evolved through the process of incremental scientific study. From the early 1900s until the late 1960s, industrial hygienists were primarily focused on occupations with very high asbestos exposures, including mining and asbestos textile and products manufacturing. The evaluation of exposure potential to end users of asbestos-containing products was not a focus of industrial hygienists until the mid- to late 1960s through 1970s.
- 6) According to his testimony, Mr. LaFrentz operated a drill press at General Dynamics Corporation/Lockheed Martin for approximately three years between 1979 and 1981 or 1982. He recalled work with aircraft test panels approximately two days per month during this time period. Based on the peer-reviewed literature and measured airborne fiber

concentrations during belt sanding activities in Mr. LaFrentz's work area during his employment, his cumulative airborne fiber exposure potential during this work would have been well below the cumulative asbestos exposure potential associated with working at the current OSHA PEL for asbestos over 45 years, and also within or below the range of cumulative lifetime ambient or background exposures experienced by anyone in the general U.S. population.

- 7) Nevertheless, Mr. LaFrentz testified that he always wore a 3M 8710 respirator after an initial short period of time working with the aircraft test panels, which if used appropriately, would have provided protection up to 10 times the OSHA ceiling or 8-hour TWA PEL for asbestos and resulted in an even lower cumulative airborne fiber exposure potential during this work.
- 8) Mr. LaFrentz described work with and around insulation during his work as a steamfitter apprentice and potentially at other work locations during his career. Based on the published literature, full-shift airborne fiber concentrations during work with asbestos-containing insulation were likely to have been above or well above the current OSHA full-shift exposure limit for asbestos. Depending on the fiber type, the nature and duration of activities, and potentially other factors, Mr. LaFrentz may have experienced additional exposures during his working lifetime. Because discovery in this case is ongoing, I reserve the right to supplement my opinions in this regard if additional information becomes available.

V. BASIS FOR OPINIONS

Background: Asbestos

The term asbestos comes from the Greek word meaning “unquenchable” or “indestructible.” The two commercial groups of asbestos minerals are serpentine and amphibole, with only one commercial mineral, chrysotile, in the serpentine group (Virta 2005). The amphibole group, on the other hand, contains several mineral fiber types including both crocidolite and amosite (Virta 2005). Each of these mineral fiber types has a unique chemical composition (Virta 2005).

In 1946, the American Conference of Governmental Industrial Hygienists (ACGIH), a professional organization of industrial hygienists and other occupational and environmental health professionals, disseminated the first set of acceptable occupational exposure limits, referred to at that time as Maximum Allowable Concentrations (MACs), for a number of commonly-used industrial chemicals, including asbestos. The MAC values were later renamed the Threshold Limit Values (TLVs). The TLVs were set using the best available scientific literature of the time, representing the amount of exposure that it was believed a worker could experience for eight hours a day, 40 hours a week, 50 weeks a year, for a working lifetime of 45 years without adverse health effects. ACGIH clarified that the TLVs “should not be regarded as fine lines between safe and dangerous concentrations” (ACGIH 1955: p. 46). The ACGIH believed that for substances thought to pose a chronic health issue, like asbestos, the important occupational exposure limit would be the full-shift time-weighted average (TWA) concentration; this approach meant that a worker could be exposed to concentrations higher than the TWA for limited periods, so long as the average concentration over eight hours remained below the 8-hour TWA (ACGIH 1955). At this time, the ACGIH adopted a value of 5 mppcf as the recommended full-shift daily exposure limit for all mineral types of asbestos based on the Dreessen et al. (1938) study (ACGIH 1968). This TLV for asbestos was based on the experience in the asbestos textile industry and was intended to protect workers from asbestosis. This 8-hour TWA TLV for asbestos remained the acceptable ACGIH exposure limit through the 1950s and up until 1968 (ACGIH 2001).

In 1968, the ACGIH proposed to change their asbestos TLV and recommended a new ceiling limit of 5 mppcf and an 8-hour TWA TLV of 2 mppcf or 12 f/cc for fibers greater than 5 μm in length. Again in 1970, ACGIH proposed to lower the TWA TLV to 5 f/cc for fibers longer than 5 μm in length, and added a short term exposure limit of 10 f/cc, longer than 5 μm in length, as averaged over 15 minutes. ACGIH adopted the lower TWA TLV for asbestos in 1974 at 5 f/cc greater than

5µm in length and included the designation “human carcinogens ... with an assigned TLV” (ACGIH 1974a; 1974b: p. 46).

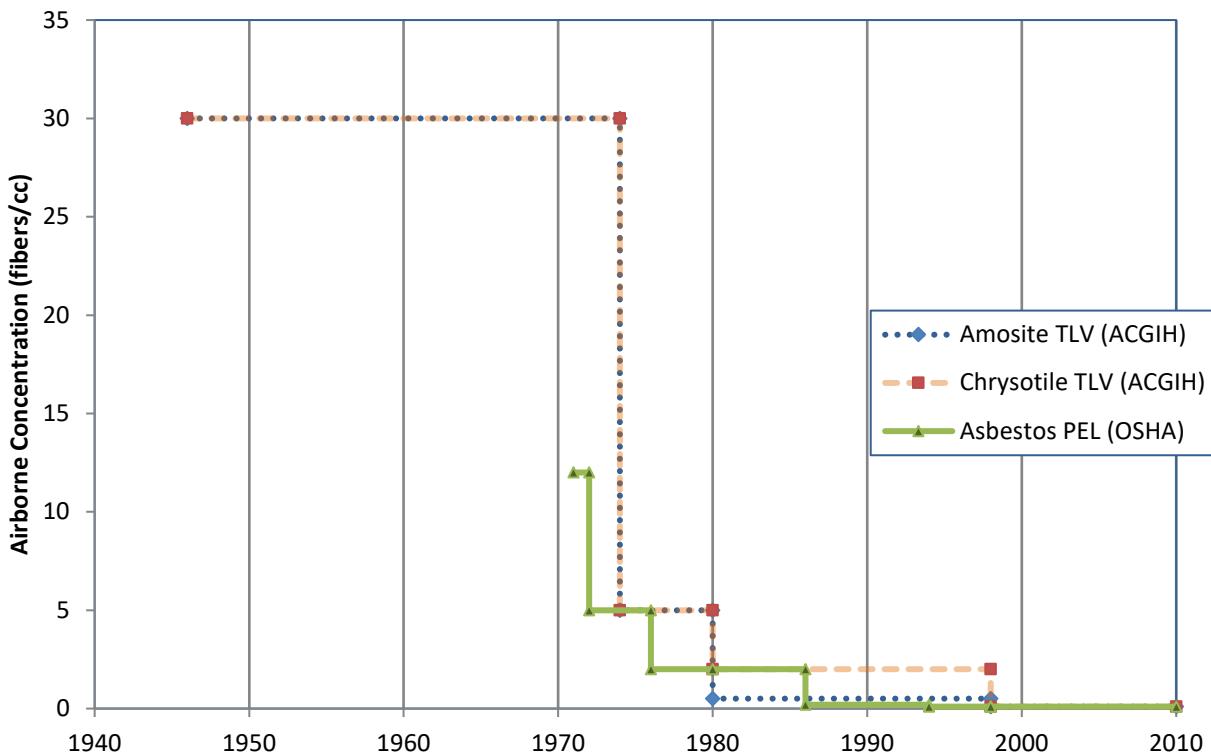
The first U.S. Occupational Safety and Health Act was passed at the end of 1970, and in 1971 the newly formed Occupational Safety and Health Administration (OSHA) promulgated regulatory requirements for the first time for asbestos that were legally binding in a majority of workplaces in the United States. Authorized by Congress under the OSH Act, OSHA adopted the existing Walsh-Healey standards, which included the 12 f/cc or 2 mppcf eight-hour TWA for asbestos, referred to as a Permissible Exposure Limit (PEL) (OSHA 1971b). The PELs for asbestos over time have been based on both an eight-hour TWA using the same methodology established by the ACGIH TLVs as well as 15- or 30-minute short-term TWAs for exposures above the eight-hour TWA. In 1972, OSHA reduced the asbestos PEL to 5 f/cc as an eight-hour TWA, and also stated that “[n]o employee shall be exposed at any time to airborne concentrations of asbestos fibers in excess of 10 fibers, longer than 5 micrometers, per cubic centimeter of air”, which was referred to as a ‘ceiling concentration’. In subsequent documentation, OSHA clarified that “[a]lthough the existing standard’s ceiling limit of 10 f/cc did not include a time period, OSHA had administratively interpreted this provision as prescribing 10 f/cc over a 15 minute period” (OSHA 1986, p. 22682). The 1972 standard included a reduction of the eight-hour TWA PEL to 2 f/cc in 1976 (OSHA 1972b).

In 1983, in conjunction with Dr. William Nicholson of the Environmental Sciences Laboratory of the Mt. Sinai School of Medicine (OSHA Contract #J-94-2-0074) OSHA published a Quantitative Risk Assessment for Asbestos-Related Cancers (OSHA 1983b). In this risk assessment, OSHA used a linear, no-threshold model to estimate the risk for lung cancer and mesothelioma associated with asbestos exposure. For mesothelioma specifically, the agency used exposure information from four studies with high historical exposures to amphiboles or mixed fiber types to extrapolate the risk for disease at lower exposures down to zero (Selikoff et al. 1979; Seidman et al. 1979; Peto 1980; Finkelstein 1983). This model was used by OSHA to determine a value for the updated OSHA 8-hour TWA PEL for asbestos in 1986. In its 1986 standard, OSHA stated that an absolute risk model was used to estimate the risk of mesothelioma in which the “magnitude of the risk increases linearly with intensity of exposure” and “exponentially with duration of exposure and time from onset of exposure” (OSHA 1986, p. 22638). OSHA reported that it used directly-observed risks in worker populations with “past exposures ... higher than those permitted today” in estimating “risk at lower exposure levels” (OSHA 1986, p. 22632). OSHA has continued to use the same risk assessment in subsequent updates to the PELs for asbestos. OSHA lowered the eight-hour TWA PEL to 0.2 f/cc in 1986 and then to the existing level of 0.1 f/cc in 1994; the U.S.

EPA has used the same risk assessment approach for non-occupational scenarios (OSHA 1986; USEPA 1986a; OSHA 1994) (See **Figure 1**). OSHA stated that their 1986 “final standard does not designate a ceiling limit for exposure to asbestos” (OSHA 1986). In 1988, OSHA added an excursion limit of 1 f/cc averaged over a sampling period of 30 minutes (OSHA 1988). In 1990, this excursion limit was also referred to as “a short-term excursion limit (STEL)” (OSHA 1990).

It should also be noted that in 1978, ACGIH recommended that the TLV for asbestos be differentiated by fiber type (ACGIH 1978). According to the ACGIH, different TLVs were warranted based on the weight of available evidence for three different types of asbestos fibers, including crocidolite, amosite, and chrysotile. The recommended TLV for each of these three fibers was 0.2 f/cc, 0.5 f/cc, and 2 f/cc, respectively. The ACGIH stated that “the exposure level of crocidolite and amosite... must be sharply lower than that of chrysotile because of their greater potential for disease production” (ACGIH 1980). In 1997, the ACGIH proposed to lower the eight-hour TWA TLV to 0.1 f/cc for all mineral forms of asbestos and adopted this value in 1998 (ACGIH 1998).

Figure 1: Changes in the Asbestos ACGIH TLVs and OSHA PEL Over Time*



* 5 mppcf was determined to be roughly equivalent to 30 f/cc (Lynch et al. 1968).

Estimating Cumulative Exposure

The exposure assessment process for any substance with the potential for chronic effects, including asbestos, typically includes quantifying to the extent possible the cumulative exposure, or the amount of contact or exposure to the agent of interest over time by all possible routes of entry into the human body. The use of a transparent, step-wise process to assess cumulative exposure is extremely important to produce consistent results from study to study, and is also likely to improve the quality of estimates generated (Sahmeh et al. 2010). A number of publications have discussed systematic approaches to the exposure assessment and reconstruction process (Viet et al. 2008; Armstrong et al. 2009; Sahmeh et al. 2010; Jahn et al. 2015). The three critical parameters for assessing exposures, and ultimately determining a consistent metric of cumulative exposure, include the duration, frequency, and magnitude or intensity of the exposure. According to the American Industrial Hygiene Association's textbook entitled *A Strategy for Assessing and Managing Occupational Exposures*, Fourth Ed., sample duration is "one of three important parameters used to describe the extent and potential consequences of exposures; the other two parameters are frequency and magnitude of exposure" (Jahn et al. 2015, p. 537). Similarly, the ATSDR has described that there are a number of factors to consider in determining the potential harm associated with asbestos exposure, including "the dose (how much), the duration (how long), the fiber type (mineral form and size distribution), and how you come in contact with it" (ATSDR 2001, p. 1, 126).

Cumulative Lifetime Exposure – C (f/cc-year)

To estimate cumulative lifetime asbestos exposure potential (C), the following equation can be used (Eq. 1). Each of the parameters in Equation 1 is defined below.

$$C = C_{8hr} \times E_D \quad (\text{Eq. 1})$$

Exposure Concentration – C_{8hr} (f/cc as an 8-hour TWA)

The first parameter necessary for estimating exposure potential is the airborne fiber concentration during the work being performed. It is important to use an estimate or calculation of the exposure concentration that characterizes the full work day, or full shift exposure potential, as an 8-hour Time-Weighted Average (TWA). This estimate of full shift exposure potential can represent direct exposures, bystander exposures, or ambient exposures, as examples.

Exposure Duration and Frequency – E_D (years)

The second parameter necessary for estimating exposure potential is the amount or duration of exposure, which encompasses the duration and frequency of exposure over time. For full shift exposure potential, exposure duration can be characterized in terms of days (as a fraction of a year) or years of exposure on either an occupational or environmental year basis. An occupational year consists of 2,080 hours and an environmental year consists of 8,760 hours.

General U.S. Population Ambient/Background Exposures to Asbestos

The U.K. Committee on Carcinogenicity stated that ambient conditions are “the normal conditions surrounding a person,” which includes both indoor and outdoor air (Committee on Carcinogenicity 2013, p. 3). Based on its evaluation, the committee reported that the levels of airborne respirable fibers are generally highest in buildings with asbestos that has been disturbed, damaged or is in bad condition, followed by buildings with asbestos in “good condition” and buildings not constructed with asbestos, and are generally lowest in outdoor ambient environments (Committee on Carcinogenicity 2013, p. 12). Based on U.S. EPA data of ambient asbestos levels in buildings with no asbestos-containing material (ACM), buildings with ACM in good condition, and buildings containing damaged ACM, Crump and Farrar (1989) reported similar findings, but found no statistically significant difference in the airborne asbestos levels detected among the three building types (Crump et al. 1989). The Agency for Toxic Substances and Disease Registries (ATSDR) stated in their 2001 Toxicological Profile for Asbestos that the estimated range of indoor ambient concentrations for asbestos is 0.00003 – 0.006 f/cc, which corresponded to cumulative lifetime exposures of 0.002 – 0.4 f/cc-year (ATSDR 2001, p. 151). This range is also consistent with the range of ambient cumulative lifetime exposures for the U.S. population, based on exposure to a combination of indoor and outdoor background asbestos-specific airborne concentration measurements. According to Nolan and Langer (2001), 18.6% of all fibers detected in the indoor and outdoor ambient air were at least 5 μm in length or longer.

Asbestos-specific airborne concentration measurements for fibers of at least 5 μm in length published in the peer-reviewed literature for outdoor ambient or background exposures to asbestos have been reported to be in the range of 0.00003 to 0.0047 f/cc (Nolan et al. 2001; Sahmeh et al. 2014a; Lee et al. 2008). Based on these recent data, lifetime cumulative outdoor ambient or background exposures to asbestos experienced by the general U.S. population over 70 years are in the range of 0.0021 to 0.33 f/cc-year (Nolan et al. 2001; Sahmeh et al. 2014a; Lee

et al. 2008). Abellmann et al. (2015) conducted a review and analysis of outdoor asbestos air concentrations measured in “the absence of known or potential asbestos emission sources” from the 1960s until the 2000s and reported a mean ambient fiber concentration of 0.00093 f/cc (range: non-detect – 0.050 f/cc) which corresponds to a mean lifetime cumulative exposure of 0.0651 f/cc-year (range: non-detect – 3.5 f/cc-year) (Abellmann et al. 2015, p. 754). It is important to note that the analysis conducted by Abellmann et al. included PCM measurements, which do not distinguish asbestos fibers from other fibers and “may overestimate the true asbestos fiber concentration compared to TEM” measurements in combination with PCM (Abellmann et al. 2015). Similarly, the ATSDR reported a worldwide ambient outdoor range of 0.00001 f/cc for rural areas and 0.0001 f/cc for urban areas based on TEM; the Health Effects Institute- Asbestos Research (HEI-AR) stated that “asbestos fibers of the dimensions most relevant to human health (that is, fibers longer than 5 μm)” were included in these estimates, although the data or studies relied upon for these values were not specified and therefore had unknown relevance to the U.S. population specifically (ATSDR 2001; HEI-AR 1991). Although outdoor ambient asbestos concentrations reported in the literature are generally lower than reported indoor ambient asbestos concentrations, a comparative analysis of airborne asbestos concentrations measured inside and outside 49 buildings performed by Crump and Farrar (1989) suggested that “[n]o statistically significant differences were detected in asbestos levels between indoors and outdoors” (Crump et al. 1989, p. 51).

The U.S. population spends more time indoors than outdoors each day. According to the U.S. EPA Exposure Factors Handbook (2011), an individual spends on average 20 hours indoors (range: 19.0-24 hours) per day and four hours outdoors (range: 0.0-5.0 hours) per day, weighted for age differences over a 70-year lifetime (USEPA 2011). Considering the lowest and highest measured asbestos-specific airborne concentrations of fibers reported in the literature for the U.S., I calculated the range of lower bound and upper bound U.S. lifetime ambient asbestos cumulative exposures based on the number of hours per day, on average, a person spends indoors and outdoors (Lee et al. 2008; Nolan et al. 2001; ATSDR 2001; Nicholson 1987; Crump et al. 1989; Heffelfinger et al. 1972). The lifetime ambient cumulative exposure range using this approach ranged from 0.002 to 0.4 f/cc-yr (**Table 1**).

Table 1. Lifetime ambient cumulative exposure range based on the lowest and highest measured asbestos-specific airborne fiber concentrations.^{a b}

Location	Hours	Lower Bound (f/cc)	Upper Bound (f/cc)
Indoor	20	0.00003	0.006
Outdoor	4	0.000003	0.0047
24-hr TWA (f/cc)		0.00003	0.006
Cumulative Exposure 70 years (f/cc-yr)		0.002	0.4

^a Based on measurement data for fibers $\geq 5\mu\text{m}$ in length and asbestos-specific, when possible; for comparison, historic converted data in ng/m^3 were also considered

^b References: ATSDR 2001; Lee & Van Orden 2008; Nolan & Langer 2001; Nicholson 1987; Heffelfinger et al. 1972; Crump and Farrar 1989

This combined indoor and outdoor ambient cumulative exposure range is consistent with the indoor background cumulative exposure range reported by the ATSDR, given the average number of hours that individuals spend indoors each day according to the U.S. EPA. It should also be noted that if the lower bound worldwide outdoor ambient concentration reported by ATSDR and HEI of 0.00001 f/cc were used in this calculation instead, the resulting cumulative exposure would remain the same. Further, it is possible that these values may underestimate historic ambient cumulative asbestos exposures. According to Abelmann et al., “ambient asbestos concentrations generally increased from the 1960s through the 1980s, after which they declined considerably” (Abelmann et al. 2015, p. 761). And finally, all of these ambient cumulative exposure values for the general U.S. population would be higher if converted to an equivalent occupational cumulative exposure potential rather than the environmental cumulative exposure potential reported above (i.e., cumulative exposure potential over 2080 hours per occupational year compared with 8760 hours per environmental year). Such a conversion allows for a more direct comparison to epidemiological evidence of the cumulative asbestos exposure potential associated with disease. Researchers have reported that this comparison factor is 4.2 (Camus et al. 2002; Reid et al. 2008). Using the factor of 4.2 results in an equivalent occupational cumulative exposure range of 0.0084 f/cc-year to 1.68 f/cc-year, compared to the environmental cumulative exposure range of 0.002 to 0.4 f/cc-year.

Studies that have conducted air monitoring of ambient indoor and outdoor air have found measurable concentrations of both chrysotile and amphibole fibers, including tremolite, actinolite, amosite, and anthophyllite fibers (Cal/EPA Air Resources Board 2015; Lee et al. 2008; Baxter et al. 1983b, 1983a; Crump et al. 1989). According to Nicholson (1987) “asbestos of the chrysotile variety has been found to be a ubiquitous contaminant of air” (Nicholson 1987, p. 7). As reported by the ATSDR, a study of indoor air in homes, schools, and other buildings that contain asbestos materials found that both chrysotile and amphibole fibers are measurable in ambient air (Lee et al. 1992). Similarly, Abelmann et al. stated that their study was a combined analysis of data for all fiber types (Abelmann et al. 2015).

A number of published epidemiology studies have suggested that exposures to ambient asbestos concentrations of any fiber type are not associated with a significantly increased incidence of asbestos-related disease (Price et al. 2004, 2005; Teta et al. 2008; Moolgavkar et al. 2009; Antman et al. 1997; McDonald 1985; McDonald et al. 1994; Moore et al. 2008). For example, Price and Ware (2004) state that although women’s environmental exposures would likely have increased since the 1930s with the increasing use of asbestos in the U.S., “the mesothelioma risk for women has not increased” (Price et al. 2004, p. 111). They note that “[e]nvironmental exposure levels, although increasing, have not triggered a risk response in women. Therefore, those exposure levels must have been below a threshold for mesothelioma” (Price et al. 2004, p. 111). Further, a recent study that I conducted with several colleagues (Glynn et al. 2018) indicated that there was no increase in incidence rates of pleural mesothelioma among females in urban versus rural areas in the U.S. between 1973 and 2012, despite measured differences of up to 10 fold or more in ambient airborne asbestos concentrations between these different geographical areas (Glynn et al. 2018). These results suggest that ambient exposures to asbestos over a wide range of background concentrations have not significantly affected the incidence of pleural mesothelioma in the U.S. over the past 40 years, and that each incremental fiber exposure cannot be assumed to contribute to disease risk at similarly low concentrations.

OSHA noted that, based on widely varying background levels of asbestos and the technological feasibility of measuring levels below 0.1 f/cc in the workplace, “the Agency cannot make the general statement that any exposure above ambient background levels presents a significant risk” (Jeffress 1999). Moreover, the U.S. EPA stated that “[e]xtrapolation of risks of asbestos cancers from occupational circumstances can be made, although numerical estimates in a specific exposure circumstance have a large (approximately tenfold) uncertainty” and acknowledged that, “[b]ecause of this uncertainty, calculations of unit risk values for asbestos at the low concentrations measured in the environment must be viewed with caution” (USEPA

1986a, p. 2). The policies of the U.S. EPA and NIOSH state that when the mode of action for any carcinogen is unknown, a linear no-threshold extrapolation model is to be used (NIOSH 2017; USEPA 2017). The U.S. EPA has reported that the risk assessment procedures set forth in their guidelines are more likely to overstate than understate risk, and linear extrapolation models “[do] not necessarily give a realistic prediction of the risk” and the “true value of the risk is unknown, and may be as low as zero” (USEPA 2005; 1986b, p. 13).

OSHA Standards, Warning Label Requirements, and Exemptions Over Time: Encapsulated Products

A notable exception to the on-going evaluation of end-user exposures associated with asbestos-containing products in the 1970s and 1980s was the use of products that were considered encapsulated. It was recognized well before 1980 that encapsulated products did not pose an exposure concern consistent with friable asbestos-containing products.

In the 1930s, researchers acknowledged the risk of asbestosis for those employed in the asbestos processing and manufacturing industries, except where processes involved “articles composed wholly or partly of woven asbestos impregnated with bitumen or other bond of an adhesive nature” (Lanza 1938, p. 391; Home Office 1935). Asbestos industry compensation programs for the workers at risk did not apply to those working with such asbestos products that included an adhesive binder (Lanza 1938).

In 1970, Selikoff noted that products in which “the asbestos is ‘locked in’ - that is, it is bound with cement or plastics or other binders” would result in no significant release of asbestos fibers in either working areas or the general environment (Selikoff 1970).

No known requirements for labeling of asbestos-containing products existed prior to 1970s (Kopelovich et al. 2014). In 1972, OSHA first required that “[c]aution labels shall be affixed to all raw materials, mixtures, scrap, waste, debris, and other products containing asbestos fibers, or to their containers, except that no label is required where asbestos fibers have been modified by a bonding agent, coating, binder, or other material so that during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the exposures limits ... will be released” (OSHA 1972b, p. 11321). It was not specified in the federal register who or what party was responsible for this labeling requirement.

OSHA's Hazard Communication Standard

In 1983, OSHA promulgated the Hazard Communication Standard that required “chemical manufacturers and importers to assess the hazards of chemicals which they produce or import, and all employers in SIC Codes 20 through 39 (Division D, Standard Industrial Classification Manual) to provide information to their employees about the hazardous chemicals to which they are exposed” (OSHA 1983a, p. 53340). The standard also indicated that the “chemical manufacturer, importer, or distributor shall ensure that each container of hazardous chemicals leaving the workplace is labeled, tagged or marked with (i) Identity of the hazardous chemical(s); (ii) Appropriate hazard warnings; and (iii) Name and address of the chemical manufacturer, importer, or other responsible party” (OSHA 1983a, p. 53343).

An OSHA directive effective March 20, 1998, provided clarifications to and interpretations of Hazard Communication Standard (HCS) provisions where “significant interpretations have been necessary to ensure uniform enforcement and understanding” (OSHA 1998b). OSHA instructed that only chemical manufacturers and importers were required to perform hazard determinations on the chemicals they produced or imported. Distributors and employers could choose to perform their own evaluation, but an employer could also rely on the hazard determination performed by the manufacturer. The new language in the February 9, 1994, Final Rule indicated that manufacturers were to consider the “health *risk* to downstream users when components of a mixture could be released”, whereas the previous language used the term ‘health *hazard*’ (OSHA 1998b). The language change was due to the recognition that “hazard is an inherent property of the chemical”, but “[h]ealth risk is a function of the inherent hazard and the exposure level” (OSHA 1998b). According to the inspection guidelines, a “complete exemption from all requirements of the HCS applies” to manufactured items that, “under normal conditions of use it does not release more than very small quantities, e.g., minute or trace amounts of a hazardous chemical ... and does not pose a physical hazard or health risk to employees” (OSHA 1998b). Further, the directive instructed that any substance “inextricably bound in a product is not covered under the HCS”; for example, if a hazard determination for a product revealed that a substance was bound and “under normal conditions of use or during foreseeable emergencies cannot become airborne and, therefore, cannot present an inhalation hazard”, then that substance “need not be indicated as a hazardous ingredient since it cannot result in employee exposure” (OSHA 1998b).

OSHA's Asbestos Standards and Encapsulated Product Language

In 1986, OSHA's updated asbestos regulatory language required that signs and labels "be posted at each regulated area where occupational exposures could exceed the PEL," except for the two following exempted situations for which no warning label or MSDS was required: "(1) [a]sbestos fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that during any reasonably foreseeable use (including handling, storage, disposal, processing, or transportation) employee exposure will remain below the action level; or (2) asbestos is present in a product in concentrations less than 0.1%" (OSHA 1986, p. 22698-22699). This labeling exemption was intended for products including brake pads and other automotive friction materials because of the encapsulated nature of asbestos in these products.

This exemption still stands today; specifically, the 1994 update to the OSHA asbestos standard stated that no label is required on products in which "[a]sbestos fibers have been modified by a bonding agent, coating, binder, or other material, provided that the manufacturer can demonstrate that, during any reasonably foreseeable use, handling, storage, disposal, processing, or transportation, no airborne concentrations of asbestos fibers in excess of the permissible exposure limit and/or excursion limit will be released, or ... [a]sbestos is present in a product in concentrations less than 1.0 percent by weight" (OSHA 1994, p. 41089-41090).

As described above, encapsulated asbestos products were and still are exempt from the OSHA regulations because the airborne fiber concentrations associated with their use are not expected to exceed the OSHA asbestos exposure limits during reasonably foreseeable activities. Available literature, as discussed below, indicates that airborne concentration measurements in brake work exposure studies and industrial hygiene surveys have been consistently below contemporaneous asbestos exposure limits.

Summary

Based on the measurement data in the literature and the OSHA labeling exemptions, brakes were historically considered encapsulated under the OSHA asbestos exposure standards, and are still considered encapsulated today. Many studies of the full-shift asbestos exposure potential during the reasonably foreseeable use of these products have shown exposures to be below or well below the current OSHA 8-hour TWA PEL of 0.1 f/cc, and certainly well below the contemporaneous PELs and action levels. As a result, it would have been reasonable not to

provide OSHA warnings associated with asbestos in these products. This opinion is also consistent with the peer-reviewed literature (Kopelovich et al. 2014).

Employer Responsibility for Worker Health and Safety

It is and always has been well understood that employers are responsible for the safety and well-being of their employees, given their ultimate control over workplace practices and conditions. From old English law to today's worker compensation systems, the employer who supervises and controls the ways and means by which work is done is accountable for the safety and health of his or her employees.

The notion that the health and safety of workers is the responsibility of the employer has a long history. For example, in England, dating back to 1200 A.D., masters were held responsible for the safety of their servants under the law of King Henry I in the 11th and 12th century (Henshaw et al. 2007). However, it was not until rapid industrialization in the United States and elsewhere during the late 1800s and early 1900s, when urban workplaces became more complicated and crowded, that new and unfamiliar workplace hazards highlighted the need for regulatory action regarding workplace health and safety (Henshaw et al. 2007). The need for occupational health and safety oversight, as well as employer accountability for worker well-being, became evident following a number of catastrophic industrial accidents, such as the 1911 Triangle Shirtwaist fire in New York (Henshaw et al. 2007; MacLaury n.d.). The earliest legislation on workplace safety in the United States was state-specific, beginning with Massachusetts' factory safety and health law passed in 1877. Most states followed with their own occupational and health legislation by 1920 (Henshaw et al. 2007; MacLaury n.d.).

On the federal level, workers' compensation laws represented some of the earliest efforts to hold employers accountable for at least the financial burden of workplace injury and loss of life, with an underlying understanding that employers would be motivated to protect against these outcomes. The Federal Employers' Liability Act (FELA) was passed in 1907, specifically to compensate railroad workers for work-related injuries. Many states followed suit, and passed workmen's compensation legislation (Henshaw et al. 2007).

In 1913, the US Department of Labor (DOL) was established to address health and safety concerns associated with a changing and growing workforce (Henshaw et al. 2007). The DOL published the "Safety Code for the Protection of Industrial Workers in Foundries," which described the responsibility of the employer to provide appropriate personal protective equipment to its

employees. Additionally, The Walsh-Healey Public Contracts Act was signed into law in 1936 to provide protections for those employed with contractors engaged in the manufacture or supply of materials for the United States government under the authority of the DOL (U.S. Department of Labor 1936). Although the law was specific to government contractors, the regulation provided a framework for making employers responsible for the health and safety of its workers (U.S. Department of Labor 1952). According to the Walsh Healey Basic Safety Health Requirements reported in 1942, it was “the duty of the employer” to provide employees “effective suitable protective equipment” to protect the eyes and face from hazards, including dusts (U.S. Department of Labor 1942, p. 6). Further, the requirement included that the employer provide personal respiratory protective equipment approved by the U.S. Bureau of Mines “for the particular health hazard involved” (U.S. Department of Labor 1942, p. 8). It was specified that such respiratory protective equipment be “maintained by the employer at no cost to the employee” (U.S. Department of Labor 1942, p. 8).

The National Bureau of Standards within the US Department of Commerce was formed in 1901 as an authoritative body on US measurements and standards. In 1938, the National Bureau of Standards convened a group consisting of industry and government representatives and published the “American Standard Safety Code for the Protection of Heads, Eyes, and Respiratory Organs,” which details the responsibility of employers to provide personal protective equipment, including respiratory protection, to its employees based on recognized hazards (NBS (National Bureau of Standards) 1938).

Employer Responsibility in the OSHA Era (December 1970 – Present)

The single most important event in American history for workplace safety and health was the passage of the Occupational Safety and Health Act in 1970. With over 90 million workers in America at that time, Congress made the duties and responsibilities of the employer clear by stating in Section 5 of the Act: “(a) Each employer – (1) shall furnish to each of his employees employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees; (2) shall comply with occupational safety and health standards promulgated under this Act” (United States 91st Congress 1970). Further, the 1972 OSHA asbestos standard specified that “every employer shall cause very place of employment where asbestos fibers are released to be monitored in such a way as to determine whether every employee’s exposure to asbestos fibers” was below applicable limits (OSHA 1972b: p. 11321). However, the expectations for the employer to protect workers against foreseeable workplace hazards has been in place long before this Act (Henshaw

et al. 2007). During the expansion of American industry between 1950 and 1969, professional industrial hygiene associations, such as the ACGIH, were active in the establishment of OELs and other recommended practices for industry. In addition, many employers established their own industrial hygiene departments to improve health and safety programs based upon the voluntary guidance for industry. The federal government, including the Department of Labor, also adopted many of the voluntary standards and work practices for government contractors with requirements that held the employer accountable for worker safety and health (U.S. Department of Labor 1952; Department of Labor 1960).

Two executive orders issued in the early 1970s expanded the provisions of the Occupational Safety and Health Act of 1970 to apply to federal government employees in addition to private sector employees (Peters et al. n.d.-a, n.d.-b). On July 26, 1971, President Richard Nixon signed Executive Order 11612 entitled "Establishment of Occupational Safety and Health Programs in Federal Departments and Agencies" (Peters et al. n.d.-b). This order directed the head of each Federal department and agency to establish an occupational safety and health program in compliance with the Occupational Safety and Health Act of 1970. On September 28, 1974, President Gerald Ford enacted Executive Order 11807 which replaced Executive Order 11612 (Peters et al. n.d.-a). Executive Order 11807 expanded on the directives contained within Executive Order 11612 in order to improve the effectiveness of each federal agency's Occupational Safety and Health Program. The expanded directives included a directive that the Secretary of Labor issue "detailed guidelines to assist agencies in establishing and operating effective occupational safety and health programs" (Peters et al. n.d.-a, p. 4).

OSHA has continued to reinforce the importance of employer responsibility since the 1970s. In 1991, OSHA published a letter of interpretation that stated, "The primary determination of responsibility for occupational safety and health purposes is which employer directly supervises the employee's day to day work activities and thereby directs the details, means, methods, and processes by which the employee reaches the work objective" (OSHA (Occupational Safety and Health Administration) 1991). Similarly, in 1998, the Occupational Safety and Health Review Commission (a federally appointed panel whose job is to adjudicate OSHA citations) ruled in a case of a subcontractor vs. general contractor: "Each employer is bound by this Act to look out for the safety of his own employees ... Contractual agreements between an employer and another party, stipulating that one party will be solely responsible for the safety of the other's employees, will not negate the original employer's obligation under the Act and does not constitute a defense to a citation" (Rothstein 1998).

The Industrial Hygiene Hierarchy of Controls

The Walsh Healey Basic Safety Health Requirements of 1942 outlined the hierarchy of controls that applied to public contracts. The requirements state that employers “shall have provision for adequate ventilation” for all work rooms, buildings, and places of employment. Additionally, the Walsh Healey Act required that “harmful atmospheric contaminants,” including dusts, “shall be reduced or otherwise controlled at the point of origin, by local exhaust” to prevent these materials from entering the breathing zone of workers (U.S. Department of Labor 1942, p. 8). Only in the event that ventilation and local exhaust were “impracticable,” employers were to enclose or isolate the work space where the “harmful contaminants” were produced, and any workers entering the enclosed work space were to “be provided with and required to wear suitable type U.S. Bureau of Mines approved respirators or masks when exposed to the harmful contaminants” workers (U.S. Department of Labor 1942, 8). The Walsh-Healey Act allowed for the use of various controls including substitution of the harmful contaminant with a less toxic material, exhaust ventilation, isolation or enclosure of the operations producing the contaminant, process changes, and increased general ventilation (U.S. Department of Labor 1952, p. 23).

The asbestos standard promulgated by OSHA required that administrative or engineering controls be implemented to achieve compliance, when feasible. Personal protective equipment was to be considered when other measures to control exposure were not feasible or possible. OSHA stated that when protective equipment was used as the method to protect employees from exposure, “such protection must be approved for each specific application by a competent industrial hygienist or other technically qualified source” (OSHA 1971b, p. 10504).

National Respiratory Protection Regulations and Standards

Timeline of Key Events

Date	Agency and Topic	Event
1959	ASA, Respiratory Protection	American Standards Association approved Z2.1-1959, the American Standard Safety Code for Head, Eye, and Respiratory Protection (American Standards Association 1959)
1969	ANSI, Respiratory Protection	American National Standards Institute, Inc. (ANSI) approved ANSI Z88.2-1969, the American National Standard Practices for Respiratory Protection (ANSI 1969)

1971, May	OSHA, Respiratory Protection	OSHA's Respiratory Protection Standard, 19 CFR 1910.134 was adopted (OSHA 1972a, p. 119-120, 359; 1982, p. 20804)
1971, May	OSHA, Asbestos	OSHA promulgated regulatory requirements for asbestos, 29 CFR 1910.03 (OSHA 1971b, 10503-10506)
1971, Dec.	OSHA, Asbestos	OSHA published the emergency standard for exposure to asbestos dust, 29 CFR 1910.93a (OSHA 1971a, p. 23207-23208)
1972	OSHA, Asbestos	OSHA published the permanent standard for exposure to asbestos dust, 29 CFR 1910.93a (OSHA 1972b, p. 11318-11320)
1980	ANSI, Respiratory Protection	ANSI approved ANSI Z88.2-1980, an updated American National Standard Practices for Respiratory Protection (ANSI 1980)
1986	OSHA, Asbestos	OSHA published an updated standard for exposure to asbestos dust, 29 CFR 1910.93a (OSHA 1986)
1992	ANSI, Respiratory Protection	ANSI approved ANSI Z88.2-1992, an updated American National Standard for Respiratory Protection (ANSI 1992)
1994	OSHA, Asbestos	OSHA published an updated standard for exposure to asbestos dust (OSHA 1994)
1998	OSHA, Respiratory Protection	OSHA issued its final revised respiratory protection regulation (OSHA 1998a)
2006	OSHA, Respiratory Protection	OSHA published legally enforceable Assigned Protection Factors (APFs) for respirators (OSHA 2006)
2015	ANSI/ASSE, Respiratory Protection	ANSI and the American Society of Safety Engineers (ASSE) adopted ANSI/ASSE Z88.2-2015 Practices for Respiratory Protection (ASSE 2017)

American Standard Safety/American National Standards Institute (ASA/ANSI) Respirator Standards

- Z2.1-1959 American Standard Safety Code for Head, Eye, and Respiratory Protection

In 1959, the American Standards Association approved Z2.1-1959, the American Standard Safety Code for Head, Eye, and Respiratory Protection (American Standards Association 1959). The document was a consensus document with voluntary compliance. The Z2.1-1959 standard was a revision of the 1938 version of the standard which was published as part of the National Bureau of Standards Handbook H24 (American Standards Association 1959). It was the 1938 version of the standard that first included respiratory protection (American Standards Association 1959).

Regarding particulates, the standard classifies particulate air contaminants as: 1) toxic particulates that pass into the blood stream, or 2) fibrosis-producing dust such as asbestos, or 3) nontoxic and nonfibrosis-producing particulates (American Standards Association 1959, p. 28).

The Z2.1-1959 standard advised that respirators should be selected based on eight key factors: 1) the nature of the hazard (e.g. particulate vs. gaseous); 2) the severity of the hazard; 3) the type of contaminant; 4) the concentration of the contaminant; 5) the period of required respiratory protection; 6) location of the contaminated air with respect to source of respirable air; 7) activity of the wearer; and 8) the operating characteristics and limitations of the available respirators (American Standards Association 1959, p. 33-36).

The Z2.1-1959 standard stated that respirators were used to supplement other methods of control rather than to substitute for them (American Standards Association 1959, p. 36). The standard explained that respirators may be called for until other control measures can be put into place or in scenarios where other control measures are impracticable.

According to Z2.1-1959, “it is essential that the user be properly instructed in [respirator] selection, use, and maintenance” (American Standards Association 1959, p. 39). The standard stated that “[c]ompetent persons should give such instruction to the supervisors of all groups who may be required to wear respirators” and the “supervisors, in turn, should instruct their men” (American Standards Association 1959, p. 39). The standard explained that the training should include: 1) an explanation of why the respirator is needed, 2) the respirator’s operating principle, 3) how to ensure the respirator is in good operating condition, 4) how to properly adjust the respirator, 5) how to properly use and maintain the respirator.

- ANSI Z88.2-1969 American National Standard Practices for Respiratory Protection

In 1969, the American National Standards Institute, Inc., (ANSI) approved ANSI Z88.2-1969, the American National Standard Practices for Respiratory Protection (ANSI 1969). The document was a consensus document with voluntary compliance. AINSI Z88.2-1969 was a revision of the respiratory protection portion of the American Safety Standard Code for Head, Eye, and Respiratory Protection, Z2.1-1959. In revision of Z2.1-1959, it was deemed advisable to separate the portion on respiratory protection into its own separate standard. Unlike Z2.1-1959, AINSI Z88.2-1969 added a section entitled “Recommended Requirements for Codes” for authorities considering establishment of respirator regulations or codes (ANSI 1969).

In the introduction of the AINSI Z88.2-1969 standard, it is stated that “exposure control shall be accomplished as far as is feasible by accepted engineering control methods before considering or instituting the use of respirators” (ANSI 1969, p. 7). Under the section, “Recommended Requirements for Codes”, the AINSI Z88.2-1969 standard stated “In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, *the primary objective shall be to prevent atmospheric contamination*” (ANSI 1969, p. 9, italics in original text).

The ANSI Z88.2-1969 standard stated that According to the ANSI Z88.2-1969 standard, minimum training shall include: 1) instruction in the nature of the hazard; 2) explanation of why more positive control is not immediately feasible; 3) a discussion of why this is the proper type of respirator for the particular purpose; 4) a discussion of the respirator’s capabilities and limitations; 5) instruction and training in actual use of the respirator; 6) classroom and field training; and 7) other special training as needed (ANSI 1969, p. 24). As was indicated in the Z2.1-1959 standard, the ANSI Z88.2-1969 standard stated that both “supervisors and workers shall be instructed by competent persons” (ANSI 1969, p. 24).

In the section of the ANSI Z88.2-1969 standard entitled “Recommended Requirements for Codes”, the standard stated that employers shall provide respirators to employees when such equipment is necessary to protect the health of the employee. The standard specified that the employer shall provide the respirators which are applicable and suitable for the purpose intended. Further, the standard stated that the employer shall be responsible for the establishment and maintenance of a respiratory protective program. The standard stated that the minimal acceptable respiratory protective program shall include the following: 1) written standard operating procedures governing the selection and use of respirators; 2) respirators shall be selected on the basis of the hazards to which the worker is exposed; 3) the user shall be instructed and trained in the proper use of the respirators and their limitations; 4) where practicable, respirators should be assigned to individual workers for their exclusive use; 5) respirators shall be regularly cleaned and disinfected; 6) respirators shall be stored in a convenient, clean, and sanitary location; 7) respirators shall be inspected during cleaning or, for emergency use respirators, at least once per month and after each use; 8) the employer shall maintain appropriate surveillance of the work area conditions and the degree of employee exposure or stress; and, 9) the employer shall regularly inspect and evaluate to determine the continued effectiveness of the program (ANSI 1969, p. 9).

Regarding administration of the respiratory protection program, the ANSI Z88.2-1969 standard stated that the program shall be administered by the plant or company industrial hygiene, health physics, safety engineering, or fire department, or, in the absence of any such department, by an upper-level superintendent, foreman, or other qualified individual responsible to the principle manager. The standard stated that responsibility for the program shall be vested in one individual (ANSI 1969).

According to ANSI Z88.2-1969, the respirator furnished by the employer shall provide adequate respiratory protection against the particular hazard for which it is designed in accordance with standards established by competent authorities (ANSI 1969, p. 11). The ANSI Z88.2-1969 stated that the correct respirator shall be specified for each job, adding that “[t]he respirator type is usually specified in the work procedures by a qualified individual supervising the respiratory protective program” (ANSI 1969, p. 23). According to the ANSI Z88.2-1969 standard, “[f]requent random inspections shall be conducted by a qualified individual to assure that respirators are properly selected, used, cleaned, and maintained” (ANSI 1969, p. 28).

- ANSI Z88.2-1980: American National Standard Practices for Respiratory Protection

ANSI approved Z88.2-1980, an updated Practices for Respiratory Protection, in May 1980 (ANSI 1980). The ANSI Z88.2-1980 standard was a voluntary consensus standard.

According to Table 5 of ANSI Z88.2-1980, particulate-filter, quarter-mask or half-mask facepiece filters provide a respirator protection factor of 10 based on qualitative testing, or a factor of up to 100 based on quantitative test measurements on each person (ANSI 1980).

- ANSI Z88.2-1992

ANSI approved Z88.2-1992, an updated American National Standard for Respiratory Protection, in August 1992 (ANSI 1992). The ANSI Z88.2-1992 standard was a voluntary consensus standard. According to Table 1 of the ANSI Z88.2-1992 standard, the assigned protection factor of air-purifying half mask respirators was 10 (ANSI 1992).

- ANSI/ASSE Z88.2-2015 Practices for Respiratory Protection

In 2015, ANSI and the American Society of Safety Engineers (ASSE) approved ANSI/ASSE Z88.2-2015, Practices for Respiratory Protection (ASSE 2017). The updated standard incorporates

regulatory and national standards changes that have occurred since the adoption of ANSI Z88.2-1992.

Early OSHA Respiratory Protection Standards

- OSHA 1971 – 29 CFR 1910.134

In May 1971, the newly formed OSHA adopted its Respiratory Protection Standard, 29 CFR 1910.134 (OSHA 1972a, p. 119-120, 359; 1982, p. 20804). The 29 CFR 1910.134-1971 standard was adopted from the ANSI Z88.2-1969 voluntary consensus standard (OSHA 1982, p. 20804).

As was stated in the Z88.2-1969 standard, the 29 CFR 1910.134-1971 standard stated that “In the control of those occupational diseases caused by breathing air contaminated with harmful dusts, fogs, fumes, mists, gases, smokes, sprays, or vapors, the primary objective shall be to prevent atmospheric contamination” (OSHA 1972a, p. 359). Also as was stated in the Z88.2-1969 standard, the 29 CFR 1910.134-1971 standard stated that prevention of atmospheric contamination “shall be accomplished as far as is feasible by accepted engineering control measures (for example, enclosure or confinement of the operation, general and local ventilation, and substitution of less toxic materials)” (OSHA 1972a, p. 359).

As was stated in the ANSI 1969 standard and the Z2.1-1959 standard, the 29 CFR 1910.134-1971 standard stated that is essential that the user be properly instructed in respirator selection, use, and maintenance (OSHA 1972a, p. 361). Likewise, it was stated that both supervisors and workers shall be instructed by competent persons (OSHA 1972a, p. 361).

The text of the 29 CFR 1910.134-1971 standard began with the text from the Section 3 of the Z88.2-1969 standard, “Recommended Requirements for Codes”, including the sections regarding employer responsibility and the minimal acceptable respiratory protection program (OSHA 1972a, p. 359; ANSI 1969). The 29 CFR 1910.134-1971 standard contains the same text regarding employer responsibility within the Z88.2-1969 standard.

In addition, in the section about general requirements for personal protective equipment (1910.132), OSHA stated that personal protective devices including respiratory devices shall be “provided, used, and maintained in a sanitary and reliable condition wherever it is necessary by reason of hazards of processes or environment, chemical hazards, radiological hazards, or mechanical irritants encountered in a manner capable of causing injury or impairment in any part

of the body through ... inhalation" (OSHA 1972a, p. 358-359). Further, OSHA stated that "[w]here employees provide their own protective equipment, the employer shall be responsible to assure its adequacy, including proper maintenance, and sanitation of such equipment (OSHA 1972a, p. 359).

Early Provisions of OSHA Asbestos Standards Regarding Respiratory Protection

- OSHA 1971, May – 29 CFR 1910.93

In May of 1971, OSHA published 29 CFR 1910.93, Air contaminants (Gases, vapors, fumes, dust, and mists) in which OSHA promulgated the first legally binding regulatory exposure limit for asbestos (OSHA 1971b, p. 10503-10506).

The 29 CFR 1910.93-May 2971 standard stated that, to achieve compliance with the exposure limit, "feasible administrative or engineering controls must first be determined and implemented in all cases" (OSHA 1971b, p. 10504). The 29 CFR 1910.93-May 2971 standard also stated that in cases "where protective equipment, or protective equipment in addition to other measures is used as the method of protecting the employee, such protection must be approved for each specific application by a competent industrial hygienist or other technically qualified source" (OSHA 1971b, p. 10504).

- OSHA 1971, December – 29 CFR 1910.93a

In December 1971, OSHA published 29 CFR 1910.93a as an emergency standard for asbestos dust (OSHA 1971a, p. 23207-23208). In the standard, OSHA stated that the employer shall establish a respirator program in accordance with the requirements of ANSI Z88.2-1969 (OSHA 1971a, p. 23208). According to the 29 CFR 1910.93a-Dec 1971 standard, the respirators provided by employers to each employee shall be properly inspected, cleaned, repaired and stored (OSHA 1971a, p. 23208).

According to the 29 CFR 1910.93a-Dec 1971 standard, employers shall provide respirators that are approved by the US Bureau of Mines under the provisions of 30 CFR Part 14 (Bureau of Mines Schedule 21B) (OSHA 1971a, p. 23208). OSHA stated in the 29 CFR 1910.93a-Dec 1971 standard, that, for 8-hr TWA exposure concentrations not exceeding 25 f/cc, and 15-minute TWA concentrations not exceeding 50 f/cc, "a reusable or single-use filter type respirator, operating with negative pressure during the inhalation phase of breathing, approved by the US Bureau of

Mines ..., or a valveless respirator providing equivalent protection, shall be used" (OSHA 1971a, p. 23208). For 8-hr TWA exposure concentrations not exceeding 250 f/cc, and 15-minute TWA concentrations not exceeding 500 f/cc, "a powered filter positive pressure respirator approved by the US Bureau of Mines ... shall be used" (OSHA 1971a, p. 23208). For 8-hr TWA exposure concentrations exceeding 250 f/cc, "a type C positive pressure supplied-air respirator approved by the US Bureau of Mines ... shall be used" (OSHA 1971a, p. 23208).

According to the 29 CFR 1910.93a-Dec 1971 standard, "[e]ngineering methods, such as but not limited to, enclosure, vacuum sweeping, and local exhaust ventilation, shall be used to meet the exposure limits ... of this section. Where such engineering methods are not feasible, or do not otherwise reduce the concentrations below those prescribed ..., respiratory protective devices shall be provided and used in accordance with paragraph (c) of this section." (OSHA 1971a, p. 23208).

- OSHA 1972, 29 CFR 1910.93a

In June of 1972, OSHA published an updated 29 CFR 1910.93a as a permanent standard for asbestos dust (OSHA 1972b, p. 11318-11320). According to the 29 CFR 1910.93a-1972 standard, the employer shall establish a respirator program in accordance with the requirements of ANSI Z88.2-1969 (OSHA 1972b, p. 11320-11321). OSHA stated in its 29 CFR 1910.93a-1972 standard that employers are required, within 6 months of the publishing of the standard, to perform personal and environmental monitoring to determine the 8-hr TWA and ceiling fiber concentrations of employees (OSHA 1972b, p. 11321). For employees whose asbestos exposures were reasonably foreseen to exceed the exposure limits, employers were required to perform personal monitoring at least every six months (OSHA 1972b, p. 11321).

In the 29 CFR 1910.93a-1972 standard, OSHA required that employers select respirators that were approved by the Bureau of Mines or by NIOSH under the provisions of 30 CFR Part 11 (OSHA 1972b, p. 11320).

In the 29 CFR 1910.93a-1972 standard, OSHA stated that compliance with asbestos exposure limits shall be met using engineering controls, local exhaust ventilation, particular tools, and work practices such as wet methods (OSHA 1972b, p. 11320). OSHA stated that compliance shall not be achieved using respirators or shift rotation of employees except during the time period necessary to install the engineering controls and institute appropriate work practices, and in

which other controls are either technically not feasible or are insufficient to reduce the airborne concentrations below the exposure limits (OSHA 1972b, p. 11320).

OSHA Respirator Assigned Protection Factors

In 2006, OSHA revised its respiratory protection standard to add definitions and requirements for assigned protection factors (APFs) and maximum use concentrations (MUCs) (OSHA 2006). ANSI standard Z88.2-1969 which was adopted by OSHA in 1971 did not contain APFs for respirator selection (OSHA 2006, p. 50125). In the 1998 final respiratory protection standard, OSHA reserved the sections related to APFs and MUCs pending further rulemaking. In the interim, OSHA stated that employers should take into account the best available information when selecting respirators, including the APFs in the 1987 NIOSH Respirator Decision Logic (RDL) document (OSHA 2006, p. 50125). In 2006, OSHA determined that the class of respirators which included the 3M 8710 would have an APF of 10; NIOSH agreed with OSHA's determination that this class of respirators would have an APF of 10 [see Section IV(C)2].

Industrial Hygiene Knowledge Over Time Regarding Asbestos

With several colleagues, I published a review article regarding the knowledge of asbestos over time within the industrial hygiene community from the early 1900s until the advent of the national health and safety regulatory structure currently in place in the U.S. (early-to-mid 1970s) (Barlow et al. 2017). Following our review of over 1,000 references, it was apparent that the evaluation of the health risks of asbestos was a complex evolution requiring decades of focused research, particularly with respect to exposure assessment (Barlow et al. 2017). Developments over time specifically as they relate to industrial hygiene knowledge of asbestos, asbestos exposure limits (1930s-1970s), and the establishment of U.S. OSHA and NIOSH are discussed in detail in the sections below.

Developments in Industrial Hygiene Knowledge of Asbestos

Industrial hygiene as a profession was in its infancy when asbestos use increased substantially in the early 1900s (Barlow et al. 2017). In this early 1900s timeframe, asbestos was frequently used in the heavy machinery industry, in the building and insulation trades, and in the military. Examples of important uses included in heat-resistant equipment components such as gaskets and brakes; in fire- and heat-resistant building components and piping systems; and for fire protection and insulation on ships. Over time, asbestos has been used in various commercial and

household products such as pipe insulation, fireproof roofing and wall materials, textiles including rope, twine, and yarn, electrical applications, plastics, flooring, paints, plasters, caulk, asphalt, mattresses, theater curtains, medical equipment, baking sheets, and cabinets (Virta 2005; Selikoff et al. 1978). Further, given the heat-resistant properties of asbestos, it was used in clothing for fire and heat protection. For example, in the October 1934 issue of *Popular Science*, asbestos suits and umbrellas used by London firemen were praised as safety devices that enabled the firemen to approach the “most furious blaze” (Unknown 1934, p. 30).

It was in 1930 that very high dust exposure levels in the asbestos manufacturing trades, including mining, milling, and asbestos textile production, were definitively linked to a non-carcinogenic lung fibrosis condition that became known as asbestosis. Merewether and Price (1930) reported that greater than 25% of workers exposed to asbestos in textile manufacturing settings in the United Kingdom developed pulmonary fibrosis, and that the incidence of fibrosis increased with the length of employment. Before 1930, the technology to measure worker exposures was very limited, and therefore restricted the ability of public health professionals to draw conclusions about the relationship between asbestos exposure and health risk (Barlow et al. 2017).

From the 1930s through the 1950s, the vast majority of published studies on asbestos looked at workplace conditions in very dusty asbestos manufacturing settings in which raw asbestos was used. According to Merewether and Price in their 1930 study, their investigation focused on manufacturing “in which there [was] exposure to pure asbestos or asbestos mixed with a very small percentage of cotton or other vegetable fibre” (Merewether et al. 1930). In 1935, a British report entitled “Memorandum of the Industrial Diseases of Silicosis and Asbestosis” identified the manufacturing of asbestos textiles, the making or repairing of insulating slabs and mattresses, and the sawing, grinding, and turning of articles composed wholly or partly of dry asbestos as the industries and processes where asbestosis was likely to occur (Home Office 1935).

From the 1940s through the 1960s, Naval specifications required that amosite asbestos-containing insulation be used for a variety of applications on ships (U.S. Navy 1959b, 1962, 1947). In 1942, the U.S. Navy issued a conservation order to conserve the supply of asbestos for purposes of national defense, mandating “no person shall fabricate, spin, or process in any other way asbestos fibre ... except where such fabrication, spinning or processing is necessary to fill Defense Orders” (Knowlson 1942, p. 436). Chapter 39 of the Bureau of Ships Manual of 1945 describes a number of shipboard applications requiring different types of thermal insulation and lagging. This manual described specifications for asbestos-containing materials for insulation applications based on equipment and temperature considerations (U.S. Navy 1945). Later

revisions of this manual, through at least 1966, maintained specifications for asbestos-containing materials in certain applications (U.S. Navy 1947, 1959a, 1960, 1965, 1966).

Through the 1950s, the ASTM International (formerly known as the American Society for Testing and Materials) had a number of asbestos-product related standards in place. The ASTM is a non-profit organization formed in 1898 to develop international voluntary consensus standards to improve product quality and enhance safety. Standards related to asbestos products included the manufacture of asbestos yarns, asbestos roving for electrical purposes, asbestos tubular sleeving, asphalt-saturated asbestos felts, laminated asbestos thermal insulation, and cellular asbestos paper thermal insulation (ASTM 299-52T; 375-52; 577-52; 628-52; 250-56; C298-56; C299-56) (ASTM 1952a, 1952b, 1952d, 1952c, 1956b, 1956a, 1956c).

In the early 1950s, the first studies began to be formally published about the nature of the fibrosis reaction caused by asbestos in the lungs. According to Vorwald et al. (1951), experiments on fiber dimension yielded information that “the capacity of inhaled asbestos fibers to produce fibrosis [was] determined primarily by factors not chemical in nature” but rather by mechanical factors (Vorwald et al. 1951, p. 18). The authors reported that fibers shorter than about 10 to 20 μm in length were “relatively innocuous” and that fibrosis was primarily caused by fibers in the range of 20 to 50 μm in length (Vorwald et al. 1951, p. 40). It was also reported that when asbestos was ground up so that none of the particles were longer than 20 μm in length, “the fibrosis –producing character of asbestos could be almost eliminated” (Sander 1958, p. 398). The American College of Chest Physicians also noted in 1964 that “grinding the fibers to less than 5 microns in length decreases their capacity to evoke fibrosis in experimental animals” (Hannon et al. 1964, p. 108).

In 1952, it was noted by Dr. Smith that, “It was the consensus of Dr. Gloyne, Dr. Wyers and Dr. Merewether that the nature of the disease asbestosis in England has changed so that it is less common and less severe in individuals whose employment in the industry has taken place only since 1932 [the year when exhaust ventilation devices were installed]. It was the consensus that a lung tumor hazard formerly existed in this industry in Great Britain but that there is no evidence to show that such a hazard continues to exist under the working conditions now prevailing” (Smith 1952, p. 253).

It was in the mid-1950s that the link between asbestos exposure and cancer was formally investigated within the advancing field of epidemiological research (Eckardt et al. 1954). Although there were a number of case reports in the late 1940s and early 1950s about a potential relationship between lung cancer and exposure to asbestos, the interpretation of these case

reports was complicated by the fact that most workers were also smokers (Merewether 1949). Thus, while there was some concern that asbestos alone might cause lung cancer, the data were not convincing through the early 1950s.

In 1955, Sir Richard Doll used a robust epidemiological study design to examine the association between asbestosis and lung cancer in workers in the United Kingdom exposed to elevated asbestos dust for twenty years or more in the asbestos textile industry. His study results indicated that an association between asbestosis and lung cancer existed. Because nearly all of the lung cancer cases that Doll studied were also diagnosed with asbestosis, he believed that asbestosis was a precursor to lung cancer and therefore lung cancer was similarly associated with high levels of asbestos exposure (Doll 1955). Doll concluded that the risk of developing asbestosis and lung cancer should continue to diminish as the industrial hygiene controls suggested by Merewether and Price (1930) were adopted (Doll 1955). Other scientists studying the asbestos-lung cancer association at the time agreed that asbestosis was a necessary precursor of lung cancer. According to Hueper, the Chief of the Environmental Cancer Section of the National Cancer Institute in 1955, “[e]pidemiological data available at present indicate that an increased liability to cancer is limited to the presence of asbestosis of the lung and does not extend to exposure to asbestos without the existence of a pneumoconiosis resulting therefrom” (Hueper 1955). Hueper confirmed in 1957 his belief that the risk of lung cancer was associated with those who were highest exposed, stating that an increased risk of lung cancer existed for miners, textile workers, and brake lining manufacturers (Hueper 1957).

It should be noted that through the 1950s and early 1960s, the industrial hygiene and safety community did not yet fully embrace the association between asbestos exposure and lung cancer. In the second edition of the Patty's Industrial Hygiene and Toxicology textbook in 1958, the section of the book written by Sander about asbestos was referred to as “Asbestosis,” and in this section it was noted that “lung cancer is under suspicion as occurring more frequently with asbestosis, especially in England” (Sander 1958, p. 398). Similarly, in 1963, the National Safety Council Data Sheet #531 stated that “[i]t is suspected that lung cancer may be induced by asbestos. However, there is no impressive amount of evidence to support this assumption” (National Safety Council 1963). That same year, the Council on Occupational Health of the American Medical Association voiced a similar opinion (Robin et al. 1963). In 1964, the American College of Chest Physicians stated that “While it has been reported that there may be an enhanced prevalence of pulmonary neoplasia in some asbestos industries (e.g. crocidolite or amosite), or in some locations (e.g. South Africa, England), this does not appear to apply for the

chrysotile industry in North America. This comment applies both with respect to intrapulmonary new growths and to pleural mesothelioma" (Hannon et al. 1964, p. 109).

In addition to the causal association between asbestosis and lung cancer demonstrated by Doll in 1955, research was first published in the early 1960s reporting mesothelioma after crocidolite exposure. In 1960, Wagner et al. found that increased mesothelioma risk was associated with exposure to crocidolite, an amphibole mineral fiber (Wagner et al. 1960). In a follow up study in 1965, Wagner examined populations who lived or worked near crocidolite, amosite, and chrysotile mines or were occupationally exposed via mining or other work in South Africa. While numerous cases of mesothelioma were identified in populations near crocidolite mines, no cases were associated with chrysotile or amosite mines (Wagner 1965).

In October 1964, Dr. Irving Selikoff, a researcher at Mt. Sinai Hospital in New York City, held a conference on the "Biological Effects of Asbestos." The proceedings of this conference were published in late 1965. A notable study discussed at the conference was Dr. Selikoff's report examining a cohort of more than 600 insulation workers that primarily handled amosite-containing insulation (Selikoff et al. 1964, 1965a). This study found a significantly increased risk of death from lung cancer and mesothelioma among insulation workers, a finding that resulted in a key change in the way future asbestos worker studies were conducted, and researchers began to investigate worker cohorts handling other asbestos-containing end-user products.

The debate over the association between asbestos and cancer (both lung cancer and mesothelioma) lasted over many decades. Enterline extensively reviewed the literature from between 1935 and 1965 on these associations (Enterline 1991). Opinions on the likelihood of association were different depending on the country of research origin, and significantly different degrees of association were seen by different researchers. In Europe and Africa, there were more consistent and significant associations noted for both lung cancer and mesothelioma, most likely due to fiber type differences (Enterline 1991; Wagner et al. 1960; Doll 1955; Wedler 1943b, 1943a; Braun et al. 1958; Gilson 1965; Nordmann 1938).

In 1969, the first edition of the Insulation Hygiene Progress Reports appeared in the Asbestos Worker journal of the International Association of Heat and Frost Insulators and Asbestos Workers union. These reports provided updates on the Insulation Industry Hygiene Research Program, which represented "the nation's first cooperative effort by an international labor union, industry, and science, consulting with government to undertake a health research program for industrial workers" (Selikoff 1969: no. 1, p. 1). Dr. Selikoff was the director of the program in a

joint agreement with the Mt. Sinai Environmental Sciences Laboratory. According to the first report, published in the spring of 1969, “the primary purpose of the combined industrial hygiene and preventive engineering research program [was] to develop improved methods that will minimize exposure of insulation workers to dust and fumes encountered in their jobs” (Asbestos Worker Journal 1969-1972, no. 1, p. 1). Key initiatives of the program included developing a new respirator for insulation workers that was “efficient, comfortable, and disposable,” sprayed fiber controls, “dustless [insulation] mixing bags,” and development of effective dust collectors for mechanized equipment such as band saws or textile saws (Asbestos Worker Journal 1969-1972, no.1, p. 1, no. 3, p. 1).

Developments in Asbestos Exposure Limits Over Time, 1930s - 1970

In 1933, Dr. E.R.A. Merewether, the Medical Inspector of Factories in England, published an analysis in which he stated that, “from examination of the varying conditions of exposure to dust amongst ‘spinners’ in individual factories, it appeared reasonable to infer that the exposure of workers in this group to dust, as a whole, was not greatly in excess of the maximum safe limit” and that “the conditions arising from flyer spinning carried on without exhaust under good general conditions was considered as the safe criterion and was termed the ‘dust datum’” (Merewether 1933, p. 115-116). In 1930, Merewether presented five airborne dust concentration measurements for activities characterized as asbestos “spinning” using the Owens jet apparatus. These measurements were reported in the number of particles per cubic centimeter (p/cc), ranging from 620 p/cc to 6,044 p/cc. Converting these concentrations to mppcf results in a ‘dust datum’ range of approximately 17.6 to 171.2 mppcf (Merewether 1930). In 1933, Merewether made the distinction between “ring spinning” and “flyer spinning”, characterizing flyer spinning as less dusty and more consistent with the levels of dustiness measured for braiding and plaiting activities (Merewether 1933, p. 115). Merewether also noted that “most” of the crystalline asbestos particles collected during the airborne dust collection were “iron containing” (Merewether 1930, p. 247).

In 1934, Merewether also explained that a “conference of asbestos textile manufacturers and representatives of the Home Office” in the U.K. government was arranged to “consider these practical difficulties and the best methods which could be adopted generally for suppressing dust in manufacturing and other processes” (Merewether 1934, p. 153). Following the conference, it was decided “to set up a joint committee to consider the problem in detail and to collect all information available concerning dust suppressing methods” (Merewether 1934, p. 153). The

committee agreed on the airborne concentration standard recommended by Dr. Merewether for dust levels and stated in their conclusions that "For practical purposes, the conditions arising from flyer spinning carried on, without exhaust under good general conditions may, it seems to the Committee, be taken as the 'dust datum.'" (Merewether 1934, p. 154).

In 1938, the U.S. Surgeon General performed an important study assessing the asbestos exposure potential for more than 500 U.S. male and female textile manufacturing workers (Dreessen et al. 1938). The results of this study confirmed that the magnitude of the airborne concentration of dust and the duration of exposures were associated with the rate of asbestosis. In their exposure study, Dreessen et al. (1938) recommended maintaining an airborne exposure concentration in the workplace of 5 million particles per cubic foot (mppcf) or less. According to the authors, "[i]t would seem that if the dust concentration in asbestos factories could be kept below 5 million particles ..., new cases of asbestosis probably would not appear" (Dreessen et al., 1938: p. 117).

Before 1940, there were no national standards or guidelines regarding acceptable exposures to chemicals or particulates in the workplace, including asbestos. By 1942, a number of states had developed some guidelines for the use of specific chemicals, including asbestos, but these were often targeted for selected industries (LaNier 1984; Frederick 1984). Regarding asbestos specifically, a number of states adopted the 5 mppcf maximum permissible concentration for asbestos based on Dreessen's recommendation, including California, Colorado, Massachusetts, Michigan, North Carolina, Oklahoma, Texas, and Pennsylvania, while South Carolina adopted a 15 mppcf guideline (LaNier 1984).

The National Conference of Governmental Industrial Hygienists (NCGIH) and American Industrial Hygiene Association (AIHA) were formed in 1938 and 1939, respectively. In 1946, the NCGIH changed its name to the American Conference of Governmental Industrial Hygienists (ACGIH). The AIHA and ACGIH are professional organizations with memberships consisting of industrial hygienists and other occupational and environmental health professionals. By the early 1940s, the ACGIH had formed a committee to develop and recommend occupational exposure limits to its membership for chemicals and physical agents commonly found in the workplace (Baetjer 1984). ACGIH recognized the need to support increased consistency in state and local regulatory and guidance bodies with respect to the variety of recommendations developed for the protection of workers (Stokinger 1981).

In 1946, the ACGIH adopted a value of 5 mppcf as the recommended full-shift daily exposure limit for all mineral types of asbestos based on Dreessen et al. (1938), in which they noted that

“massive exposures” to asbestos occurred (ACGIH 1968, p. 188). This eight hour TWA TLV for asbestos remained the acceptable ACGIH exposure limit through the 1950s and up until 1968 (ACGIH 2001).

Throughout the 1940s and 1950s, industrial hygienists continued to associate hazardous asbestos exposures with workers in the asbestos mining, milling, and manufacturing trades who routinely handled raw asbestos fibers (Ayer et al. 1965; ACGIH 1968; Shapiro 1970). Exposures exceeding the 5 mppcf TLV were not associated with workers handling asbestos-containing products, and this was supported by the first large-scale epidemiological study to measure the exposures to end-users of asbestos-containing products. Published in 1946, this study examined the exposure potential and health status of naval pipe covering workers at four separate shipyard locations (Fleischer et al. 1946). The authors reported that three of the 1,074 workers evaluated had developed asbestosis after employment as pipe coverers for more than 20 years. Another 48 pipe coverers who worked for more than 10 years reportedly did not develop asbestosis. Airborne dust concentrations attributable to asbestos for certain activities such as insulation layout and cutting, sewing and fabrication, cement mixing, and grinding, were reported to be less than the recommended ACGIH TLV of 5 mppcf, although total dust concentrations were found to exceed this level. Only isolated activities in the study, such as the use of a band saw to cut insulation, were reported to result in airborne asbestos concentrations above 5 mppcf. The authors noted that the asbestos exposures associated with asbestos manufacturing settings such as asbestos textile manufacturing would “differ widely” from exposures associated with the use of asbestos-containing products (such as pipe covering activities) (Fleischer et al. 1946, p. 13). They further reported that “[i]n textile plants workers usually continue at specific jobs with fairly constant dust exposures for some years, whereas the pipe coverer may rotate between shop and ship and from small to large ship compartments with a wide variation in dust exposure” (Fleischer et al. 1946, p. 13). They also indicated that the asbestos content of insulation materials could vary widely (10-95%). In their conclusions, the authors stated that, “[s]ince each of the three cases of asbestosis had worked at asbestos pipe covering in shipyards for more than 20 years, it may be concluded that such pipe covering is not a dangerous occupation” (Fleischer et al. 1946, p. 16).

In 1951, the Walsh-Healey Contracts Act was revised by the U.S. Department of Labor to adopt the ACGIH TLV for asbestos of 5 mppcf (Department of Labor 1951). The Walsh-Healey Act stated that companies that entered into contracts of over \$10,000 with the federal government were required to provide a safe workplace for their employees and assure that employees were not being exposed above specific occupational guidelines (OSHA 2002). The value for asbestos of 5 mppcf was further incorporated in the 1952, 1960, and 1966 revisions of the Walsh-Healey Act

(Department of Labor 1952, 1960, 1966). The U.S. Military also adopted these early occupational exposure limits, and in 1955, the Naval Bureau of Medicine and Surgery sent a memorandum to all locations and ships stating that the Navy should adopt the TLVs established by ACGIH, including the asbestos TLV, in order to “provide guidance toward the reduction of potential health hazards encountered in the industrial environment for both military and naval civilian personnel” (United States Navy 1955, p. 1).

Throughout the 1940s and well into the 1950s and early 1960s, the safety and health community continued to remain focused on asbestos exposure potential in the very dusty trades, including miners and millers handling raw asbestos mineral fibers and workers in asbestos product manufacturing settings. Industrial hygienists continued to consider mineral fiber concentrations below 5 mppcf (the “Dreessen Standard”) unlikely to present an increased risk of asbestos-related disease, and the handling of asbestos-containing end-user products was considered unlikely to produce exposures at concentrations sufficient to put workers at increased risk of developing asbestos-related disease. Similarly, in 1953, Isselbacher et al. continued to refer to the ‘dust datum’ level established through the work of Merewether and the U.K. committee established to determine practical standards for dust suppression as a “safe level” (Isselbacher et al. 1953).

Another early worker exposure end-user product study was published by Marr in 1964, which, unlike Fleischer et al., 1946, demonstrated that exposures to insulators could exceed the 5 mppcf standard (Marr 1964). During a variety of insulation installation and removal tasks at Long Beach Naval Shipyard, Marr found concentrations of fibers 3-60 μm in length ranging from less than 1 mppcf to 8.0 mppcf (Marr 1964).

Despite the recent publications in the scientific literature about the association between asbestos and lung cancer and mesothelioma, in the early 1960s, the ACGIH reaffirmed the TLV for asbestos at 5 mppcf (LaNier 1984). However, a call to lower the TLV began at the Biological Effects of Asbestos conference in 1964.

Up until the mid-1960s, impingers and midget impingers were the most common sampling methods used to collect asbestos dust in the air in the U.S. In 1969, the Bureau of Occupational Safety and Health within the U.S. Department of Health, Education, and Welfare published a document on the procedure for using the Millipore sampling method for measuring airborne asbestos fiber concentration (Bayer et al. 1969). The British Asbestos Research Council published a similar method in the same year. These sampling methods collected fibers in the air on a

membrane filter, which allowed for the analysis of airborne fibers specifically, rather than just the concentrations of all particulates collected from the air (OSHA 1997; Ayer et al. 1965; Bayer et al. 1969; Barlow et al. 2017). This was an important development in assessing asbestos exposures in the workplace, since it had been established that it was the longer fibers that were of greatest concern in determining disease risk (Vorwald et al. 1951).

Despite the limitations of the impinger sampling method for asbestos, asbestos exposure measurement data collected using the impinger still generally correlated with much of the epidemiological data collected prior to this period of history. According to Ayer et al. (1965), “the incidence and severity of asbestosis increased with increasing dust exposure and ... those workers exposed to dust concentrations of less than 5... mppcf [using the standard impinger method] did not develop asbestosis even after long-continued exposure” (Ayer et al. 1965, p. 274). According to worksite studies, it was determined that 1 mppcf using the impinger method was roughly equivalent to 6 fibers per milliliter of air, or f/mL (also equivalent to f/cubic centimeter, f/cc) when counting fibers greater than 5 μ m in length using the membrane filter method; therefore, the 5 mppcf exposure limit determined by the impinger method was roughly equivalent to 30 f/cc using the membrane filter method (Ayer et al. 1965; Lynch et al. 1968). However, this conversion factor will be variable depending upon the worksite and the nature of materials used (Ayer et al. 1965).

In 1968, the committee on Hygienic Standards of the British Occupational Hygiene Society (BOHS) first recommended a limit for chrysotile of 2 f/ml as an 8-hour TWA exposure limit (ACGIH 1968). This level was set based on a 50-year working lifetime exposure, and was derived based on the concept that in order to avoid asbestosis, the chrysotile asbestos fiber burden should be below 100 fiber/ml-years. Fiber/ml-years are calculated by multiplying the eight-hour TWA exposure by the number of years exposed, assuming exposures occur five days a week, 50 weeks a year. Also in 1968, the ACGIH proposed to change their asbestos TLV and recommended a new ceiling limit of 5 mppcf and an eight-hour TWA TLV of 2 mppcf or 12 f/cc for fibers greater than 5 μ m in length. This proposed change was adopted under the Walsh-Healey Act revision of 1969. Again in 1970, ACGIH proposed to lower the TWA TLV to 5 f/cc for fibers longer than 5 μ m in length, and added a short-term exposure limit of 10 f/cc, longer than 5 μ m in length, as averaged over 15 minutes. ACGIH ultimately adopted the lower TWA TLV for asbestos in 1974 at 5 f/cc greater than 5 μ m in length and included the designation “human carcinogens ... with an assigned TLV” (ACGIH 1974a; 1974b, p. 46).

Establishment of U.S. OSHA and NIOSH

The first U.S. Occupational Safety and Health Act was passed at the end of 1970, and in 1971 the newly formed Occupational Safety and Health Administration (OSHA) promulgated regulatory requirements for the first time for asbestos that were legally binding in a majority of workplaces in the United States. Authorized by Congress under the OSH Act, OSHA adopted the existing Walsh-Healey standards, which included the 12 f/cc or 2 mppcf eight-hour TWA for asbestos, referred to as a Permissible Exposure Limit (PEL) (OSHA 1971b). The PELs for asbestos over time have been based on both an eight-hour TWA using the same methodology established by the ACGIH TLVs, as well as a 15- or 30-minute short-term TWA for excursions above the eight-hour TWA. In 1972, OSHA reduced the asbestos PEL to 5 f/cc as an eight-hour TWA, and created a 15-minute peak exposure value of 10 f/cc for all asbestos forms. The 1972 standard included a reduction of the eight-hour TWA PEL to 2 f/cc in 1976 (OSHA 1972).

The 1972 OSHA asbestos standard regulated only fibers longer than 5 μm in length (OSHA 1972b). Since 1971, OSHA has employed the filter membrane sampling with phase contrast microscopy (PCM) analysis for the evaluation of airborne asbestos fiber concentrations at work sites in the U.S. for determining airborne concentrations of fibers per cubic centimeters; this method became a requirement under the OSHA asbestos standards in 1972. However, it should be noted that PCM does not discriminate between asbestos fibers and other dimensionally similar fibers. This methodological limitation can lead to overestimations of airborne asbestos concentrations. Transmission electron microscopy or TEM analysis is often used to differentiate between asbestos mineral fiber types (e.g., chrysotile, amosite, and crocidolite) and to distinguish asbestos fibers from non-asbestos fibers. Since the PEL is based on PCM data, TEM analysis is generally used as a secondary method to determine the fraction of asbestos fibers in the total airborne fiber count for comparison with PCM data. This asbestos fiber-specific fraction of the total measured PCM fibers is often called the PCM-equivalent asbestos fiber concentration, or PCME (Sahmeh et al. 2014a; Barlow et al. 2017).

In 1973, Dr. Herb Stokinger, the Chairman of the ACGIH TLV committee and Chief of the Toxicology Branch of the U.S. Public Health Service, wrote a letter to the TLV committee stating that recent asbestos epidemiology studies had shown a threshold response for carcinogenicity and asbestos. He calculated in the letter a “margin of safety” for “all types of asbestos related disease, cancers and asbestosis” at the ACGIH TLV of 5 f/cc as averaged over an eight-hour work day (Stokinger 1973). For a 50-year working lifetime at the 5 f/cc eight-hour TWA, the safety factor was estimated at 3.1, equivalent to a cumulative exposure of 250 f/cc-yrs.

Regarding the levels of asbestos exposure necessary to cause disease, published references in the early 1970s clearly demonstrated that this issue had not yet been resolved. According to NIOSH in 1972, “the scant data and the long latent period for the development of bronchogenic cancer and mesothelioma do not permit the establishment of the dose-response relationship [for asbestos] at this time” (NIOSH 1972). Similarly, in 1970, regarding asbestos exposures, Roach stated that, “to derive hygiene standards for an air contaminant which provide a known degree of protection against a health hazard, it is necessary to have a body of data showing the amount of air contaminant to which people are exposed and the corresponding effects or lack of them in the people...Our present information is very imprecise, particularly in terms of the practical consequences of specific hygiene standards” (Roach 1970, p. 14). Nearly all notable exposure studies of occupations in which the employees were potential end users of asbestos-containing products were not published until the 1970s, including for auto mechanics, electricians, dry wall workers, and insulation workers (Hickish et al. 1970; Sawyer 1977; Rohl et al. 1975; Nicholson et al. 1972; Nicholson 1976). It was not until these studies began to be published that the relative exposure potential associated with end users of different asbestos-containing products was understood in terms of airborne fiber concentrations. It was also important that these were among the early exposure studies to report exposures using the PCM analytical method (f/cc) rather than total suspended particulates (mppcf). Without these data, the risk of asbestos exposure could not be quantified in the terms used today by the scientific community (Barlow et al. 2017). For example, in 1977, Rohl et al. stated that with respect to chrysotile-containing brakes specifically, there was a need for “Epidemiological studies of the mortality experience of exposed workers” (Rohl et al. 1977), p. 36).

In 1975, OSHA published a Notice of Proposed Rulemaking to revise the standard for occupational exposure to asbestos (OSHA 1975). In the notice, OSHA stated that “in very recent time,” asbestos in commercial forms had come to be associated with bronchogenic carcinoma (OSHA 1975: p. 47653). Regarding smoking, OSHA reported that a study by Hammond and Selikoff (1973) had confirmed earlier findings indicating that “non-smoking asbestos workers had few lung cancers while those who smoked had much more lung cancer than would have been expected had they not been asbestos workers” (OSHA 1975: p. 47655). It appears likely that smoking among workers complicated the ability of researchers and government regulators to characterize the quantitative association between asbestos exposure and lung cancer.

With respect to asbestos dose-response relationships, a 1980 OSHA/NIOSH report reported that “the exact nature of the dose-response relationships may be subject to considerable debate. This

is ... primarily because of problems of exposure estimation. Methods of measuring dust levels have changed over time with respect to sampling instrument (thermal precipitation vs. midget impinger vs. membrane filter), location of sampling (personal vs. area), and dust counting (particles vs. actual fibers) and/or evaluation techniques (whole fields vs. eyepiece graticule)" (NIOSH/OSHA 1980: p. 31).

Mr. LaFrentz's Use of Respiratory Protection at General Dynamics/Lockheed Martin

Mr. LaFrentz testified that during the honeycomb or coupon drilling process, he "had a mask on" (LaFrentz Vol. I: p. 72, l. 7, p. 73). He stated that he was not aware of any policies that required him to use a dust mask while performing the coupon drilling work (LaFrentz Vol. I: p. 74). He did not recall whether he had a dust mask on the very first time he started drilling (LaFrentz Vol. I: p. 74). He stated that he was first prompted to request a dust mask for this work because he was "trying to get away from all the black dust and smell"; he later described a "black fog" (LaFrentz Vol. I: p. 74, l. 25 – p. 75, l. 1; Vol. 2: p. 168). He indicated that he would wear the mask "all the time" (LaFrentz Vol. I: p. 80, l. 17).

Mr. LaFrentz believed that the mask "was a 3M dust protector" and that it "was 8710" (LaFrentz Vol. I: p. 78, l. 4, 7). He reported that he did not have any facial hair during that time or ever (LaFrentz Vol. I: p. 78-79). He believed that he wore the same mask during the three years he was a drill press operator (LaFrentz Vol. I: p. 81). He recalled that "most of the time", he would wear the same mask all day (LaFrentz Vol. I: p. 82, l. 3). He later clarified that it was "probably a week until [he] got the mask" after he started drilling the panels (LaFrentz, Vol. 2: p. 106, l. 8).

Mr. LaFrentz testified that he did not ever see an instruction sheet with the 3M 8710, or any product warnings, literature, brochures, or advertisements (LaFrentz Vol. 2: p. 108).

C_{8hr}: A Review of the Data from Relevant Peer-Reviewed and Government Publications and on Measured Airborne Fiber Concentrations during Work with Adhesive Products

Airborne Fiber Concentration Data Associated with Adhesive Products

Mr. LaFrentz agreed in his testimony that there was a document produced as Exhibit Plaintiff 2 to his deposition that addressed the use of adhesive in the honeycomb aircraft panels he described working with at General Dynamics for approximately two days per month over three years between 1979 and 1981 or 1982 (LaFrentz Vol. 2: p. 162). Specifically, the document

described the material as follows: "FMS 3018 is used in adhesive of P 653 Panels" (LaFrentz Exhibit Plaintiff 2).

The use of chrysotile asbestos in adhesive composites is considered an encapsulated product. Consistent with this characterization of the asbestos exposure potential associated with composite and adhesive materials, at least one peer-reviewed published study has indicated that the use of asbestos-containing coatings, mastics, epoxies, adhesives, and similar products in occupational settings is likely to result in very low concentrations of airborne asbestos, if these concentrations are not below the limit of detection. Such airborne fiber concentrations would have been below both historical and current occupational exposure limits for asbestos, and could be indistinguishable from background concentrations of asbestos in industrial environments.

Paustenbach *et al.* (2004) published a peer-reviewed article titled *Occupational exposure to airborne asbestos from coatings, mastics, and adhesives* in the Journal of Exposure Analysis and Environmental Epidemiology, in which the authors reported on a study conducted to measure the total airborne fiber concentrations during the use of four asbestos-containing products: a coating, two mastics, and an adhesive (Paustenbach *et al.* 2004). These products contained 1-9 percent asbestos, with the adhesive containing 8-9 percent asbestos. In this study, the personal and area airborne concentrations of asbestos fibers released during five different activities (application, spill cleanup, sanding, removal, and sweep cleaning) were measured during periods of approximately 30 min to 8 hours depending on the activity. Total airborne fiber concentrations were measured using phase contrast microscopy (PCM), and asbestos-specific fiber counts were measured using transmission electron microscopy (TEM) to determine a PCME airborne asbestos concentration. Chrysotile asbestos fibers were detected by TEM in six of 452 samples, indicating that a very low percentage of fibers measured in the air were asbestiform. Task-based airborne chrysotile concentrations ranged from 0.003 to 0.04 fibers per cubic centimeter or ml (f/cc) (PCME by NIOSH 7402). These measurements were well below the current OSHA 8-hr TWA PEL of 0.1 f/cc. In their paper, the authors concluded that these results indicated that there was "virtually no occupational exposure to the asbestos in these products during the application, spill cleanup, cutting and removal, and sweep cleanup" (Paustenbach *et al.* 2004).

Airborne Fiber Concentration Measurement at General Dynamics in Mr. LaFrentz's Work Area

The exhibit to Mr. LaFrentz's testimony addressing the adhesive material tested contained a report with a single airborne fiber sample collected during Mr. LaFrentz's work at General Dynamics on February 26, 1980. According to the report, a one-minute sample was collected

during “belt sanding P 653 panels” (LaFrentz Plaintiff 2 Exhibit). The airborne fiber concentration over one minute was 28.8 f/cc; the analytical method was not reported, but appeared to be PCM. As noted by Paustenbach et al. (2004), a very small percentage of fibers measured during the manipulation of adhesives may be asbestosiform, and therefore PCM concentrations alone may overestimate the asbestos-specific airborne fiber concentration measured using TEM or PCME.

It was noted in the report that during sampling, Mr. LaFrentz “wore a disposable respirator approved for use in asbestos contaminated atmosphere” and described the respirator as a “3M model 8710” (LaFrentz Plaintiff 2 Exhibit).

Summary: Mr. LaFrentz’s Cumulative Asbestos Exposure Potential During Drilling Activities Involving Aircraft Test Panels

Any exposure that Mr. LaFrentz may have experienced as a result of working with these encapsulated products would have been well below the cumulative asbestos exposure potential associated with working at the current OSHA PEL for asbestos over 45 years, and also within or below the range of cumulative lifetime ambient or background exposures experienced by anyone in the general U.S. population.

Based on Equation 1 above, the following two parameters are necessary for estimating cumulative exposure potential: duration and frequency of exposure (E_D in years) and the airborne fiber concentration associated with the work performed (C_{8hr} in f/cc).

Summary: Duration and Frequency (E_D) of Exposure Potential to Mr. LaFrentz

Regarding Mr. LaFrentz’s work with the honeycomb panels over approximately three years, Mr. LaFrentz described that he would work on a plastic bin of the panels that contained anywhere from 8 to 14 or 20 to 30 panels (LaFrentz Vol. I: p. 65; LaFrentz Vol. 2: p. 118-119). He described that he “might have to do this for two days” and then he “might... not have another bin come out for a month” (LaFrentz Vol. I: p. 65, l. 12-13). This frequency and duration of work is equivalent to 576 hours (8 hours/day x 2 days/month x 36 months). On an occupational year basis, this is equivalent to 0.28 occupational year (576 hours ÷ 2,080 hours/occupational year).

Based on the number of panels he described, and his testimony that he would typically drill either two or four holes per panel, this would approximately equate to an upper bound of approximately 90 holes drilled per plastic bin of panels. Regarding belt sanding specifically, this

might take 10-20 seconds per hole drilled to smooth out any burrs while not also degrading or altering the panel surface, or up to approximately 30 minutes per day (up to 20 sec. per hole drilled x up to 90 holes drilled ÷ 60 sec/min).

Summary: Measured Airborne Fiber Concentrations (C_{8hr}) during Work with Encapsulated Adhesive Products

For adhesives and similar products, Paustenbach et al. (2004) reported that airborne fiber concentration measurements were well below the current OSHA 8-hr TWA PEL of 0.1 f/cc, or between 0.003 f/cc and 0.04 f/cc. Additionally, a very small percentage of airborne fibers measured were asbestos. The authors concluded that based on the measured results, there would be "virtually no occupational exposure to the asbestos in these products during the application, spill cleanup, cutting and removal, and sweep cleanup" (Paustenbach et al. 2004).

Based on the single sample collected at General Dynamics during Mr. LaFrentz's employment, if he had hypothetically spent as much as 30 minutes per day actively belt sanding panels (as calculated above), and if the airborne fiber concentration reported was representative of asbestos fibers specifically (for which there is no evidence), then the 8-hour TWA airborne fiber concentration during this work would be equivalent to 1.8 f/cc [(28.8 f/cc x 30 minutes) + (a midpoint of 0.02 f/cc during Paustenbach et al. adhesives work x 450 minutes) ÷ 480 min over 8 hours]. According to the sample report in LaFrentz Plaintiff 2 Exhibit, the allowable exposure to asbestos at the time of sample collection was 2 f/cc, indicating that 1.8 f/cc as an 8-hour TWA would have been within the allowable limits at the time of sample collection. Additionally, the use of a respirator would serve to further reduce this exposure potential. At an APF of 10, the user would experience at least a 90% reduction in airborne fiber exposure potential.

Summary: Mr. LaFrentz's Cumulative Exposure Potential (C)

As previously discussed, cumulative lifetime background exposures on a working lifetime basis are equivalent to 45 working years at the current OSHA 8-hour TWA PEL of 0.1 f/cc which equates to a working lifetime of 4.5 fiber/cc-years. Ambient or background cumulative lifetime asbestos exposures to individuals in the U.S. have also been measured and found to be in the range of 0.002 to 0.4 f/cc-year on an environmental year basis (or 0.0084 to 1.68 f/cc-year on an equivalent occupational cumulative exposure basis).

Based on the specific duration and frequency that Mr. LaFrentz described working with the honeycomb aircraft panels (approximately 0.28 occupational year), his work drilling panels at General Dynamics between 1979 and 1981 or 1982 would have resulted in a cumulative lifetime asbestos exposure potential that is well within the occupational-equivalent cumulative working lifetime exposure at the current OSHA PEL of 4.5 f/cc-year, and also well within the background or ambient cumulative asbestos exposures experienced by the general population in the U.S., if not below the limit of detection (see **Eq. 1**). It should be noted that this would be true whether the sampling data from General Dynamics or the sampling data from Paustenbach et al. (2004) is used to calculate cumulative exposure potential. According to the weight of evidence in the peer-reviewed literature, exposures to asbestos to the U.S. population across the wide range of measured and reported background airborne fiber concentrations have not been shown to be associated with a statistically-significant increased risk of asbestos related disease, including mesothelioma.

Additionally, using respiratory protection during this work with an APF of 10 (equivalent to an exposure reduction of 90%) for approximately three years would result in an even lower cumulative exposure, which would be even further within the range of cumulative lifetime background or ambient exposures, if not below the limit of detection.

Mr. LaFrentz's Descriptions of Work Around Insulation

He also recalled that “one year [he] worked as an apprentice steamfitter” and believed that this was the following summer after the construction site job (LaFrentz Vol. I: p. 35, l. 24-25; p. 36, l. 1-2; p. 38). During this employment, he stated that he “helped one guy” and recalled that they were “redoing piping in the basement of an unoccupied hospital” (LaFrentz Vol. I: p. 38, l. 9-10). He indicated that the work he did was consistent with an apprentice, and that he would “put goop on pipes and [screw] them in and all the old pipes out” (LaFrentz Vol. I: p. 38, l. 20-21). He did not recall if they took any insulation off of the piping systems they removed (LaFrentz Vol. I: p. 168). He agreed that “the whole area was always dusty” (LaFrentz Vol. I: p. 170). He did not recall whether he wore any type of dust mask while performing this work (LaFrentz Vol. I: p. 170).

Airborne Fiber Concentration Studies Associated with Insulation Work

Studies have reported that average short-term fiber concentrations associated with insulation work ranged between 1.0 f/cc and 8.4 f/cc in industrial and commercial settings, and 0.2 f/cc and 226 f/cc in maritime settings (Cooper et al. 1968; Harries 1971). Similarly, Balzer et al. (1972)

reported average short-term fiber concentrations during a simulation study in which pipe covering was manipulated via hand sawing, band sawing, and power sawing and indicated that airborne concentrations for personal samples ranged from 1.3 f/cc to 2,629.7 f/cc. In 1986, the U.S. EPA's Airborne Asbestos Health Assessment Update reported that historic asbestos exposures to shipyard and industrial insulation were estimated to be in the range of 3 to 6 f/cc (on a long-term average or full-shift basis) between 1968 and 1971 (Nicholson 1972; USEPA 1986a). Acknowledging that certain asbestos-containing insulation products may have contained nearly double the asbestos content in the years prior to 1968, the study suggested that average exposures of insulation workers in the U.S. could have ranged from 10 to 15 f/cc for insulators in commercial and industrial construction and 15 to 20 f/cc for insulators in marine construction (USEPA 1986a).

It is well documented that from the 1930s until the early 1960s, amosite was the predominant fiber type used in many military and industrial insulation applications in both the U.S. and Europe (Balzer et al. 1968; Cooper et al. 1968; Mangold 2003; Murphy et al. 1971; Rushworth 2005; Harries 1968). Beginning in the 1930s, the U.S. Navy started using amosite asbestos insulation, and the use of this insulation on pipes and equipment was widespread due to its low thermal conductivity, strength, light weight, and high temperature limit (Fleischer et al. 1946). According to U.S. Navy specifications, the composition of asbestos-containing insulation was approximately 57-95% amosite and 6-43% chrysotile (Rushworth 2005). Similarly, Balzer and Cooper reported the asbestos content of insulation generally to be variable, and stated that insulation could contain chrysotile, amosite, other materials, or a combination of fiber types (Balzer et al. 1968). Entities such as Johns Manville and Owens Corning manufactured many insulating products, including products such as Kaylo insulation and Johns Manville insulation, that historically contained amphibole asbestos, for a wide variety of uses (Johns-Manville 1973, 1950-1965; Owens Corning 2000; Helser 1984; Johns-Manville 1963).

In the mid-1960s, researchers first demonstrated through epidemiological studies that tradesmen who routinely handled or worked in the vicinity of others using amosite-containing insulation were at an increased risk of developing asbestos-related diseases (Selikoff et al. 1965b; Selikoff 1965). This was likely due, in part, to the substantial concentrations of airborne asbestos fibers generated while thermal insulation was sprayed, installed, repaired, or removed from various structures, equipment, and associated piping.

Expert Report of
Jennifer Sahmel, MPH, CIH, CSP, FAIHA
In the matter of LaFrentz
August 14, 2020

VI. CLOSING COMMENTS

I submit these comments and am prepared to support them in both deposition and/or courtroom testimony. I may supplement this report if additional information becomes available or I am asked to address other issues.

Respectfully,



Jennifer Sahmel, MPH, CIH, CSP, FAIHA
Managing Principal Scientist

August 14, 2020

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Expert Report of
Jennifer Sahm, MPH, CIH, CSP, FAIHA
In the matter of LaFrentz
August 14, 2020

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Expert Report of
Jennifer Sahmel, MPH, CIH, CSP, FAIHA
In the matter of LaFrentz
August 14, 2020

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Expert Report of
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Attachment A

Curriculum Vitae



Jennifer Sahmel, MPH, CIH, CSP, FAIHA

Managing Principal Scientist

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Professional Profile

Ms. Sahmel is a certified industrial hygienist and certified safety professional with over 20 years of experience in human health risk assessment and workplace health and safety. She is also a Fellow of the American Industrial Hygiene Association (FAIHA) and a Research Fellow of the Exposure Science and Sustainability Institute at the University of Minnesota. She has significant experience in exposure assessment practice and methodologies, exposure reconstruction, health risk decision making, OSHA regulatory issues, and safety management systems. Her areas of expertise include comprehensive exposure and risk assessment strategies, exposure reconstruction, dermal exposure assessment methods, industrial hygiene state of knowledge, Bayesian decision analysis, U.S. EPA exposure assessment tools, Proposition 65 health risk assessment, product stewardship and sustainability issues, industrial hygiene monitoring and data analysis, safety and occupational health management methods, and safety leadership. Ms. Sahmel has been involved in characterizing exposure to a variety of chemicals and products for both occupational and consumer product exposure scenarios in a variety of circumstances including for government, academia, law firms, non-profit associations, and private companies. These substances include asbestos, talc, solvents, benzene, gasoline, flame retardants, wood dust, phthalates, lead, beryllium, silica, vinyl chloride, paints/coatings, boiler water treatments, organic solvents, abrasive blasting agents, mercury, arsenic, carbon monoxide, and others.

Education and Degrees Earned

University of Minnesota, Twin Cities, 2013-present

- Environmental Health Sciences, PhD program. Estimated completion 2020.

M.P.H., Industrial Hygiene, University of California, Berkeley, 1996

University of Maryland, College Park, MD, 1992-1994

- Coursework included General Chemistry I and II, Organic Chemistry, Microbiology, Multivariable Calculus, and Differential Equations. Total of 24 semester credit hours.

B.A., International Studies, College of William and Mary, Williamsburg, VA, 1992

- Completed studies at the Université de Grenoble in Grenoble, France in 1991

Certifications

Certified Industrial Hygienist, #8035, 2000 (re-certified 2016)

Certified Safety Professional, #31110, 2004 (re-certified 2016)

Professional Honors/Awards

- Awarded Fellow status in the American Industrial Hygiene Association (AIHA), 2019
- Research Fellow, Exposure Science and Sustainability Institute, University of Minnesota, 2018 – present.
- Elected to the American Industrial Hygiene Association's Board of Directors in 2014. Served as a Director for the nearly 10,000-member organization for 2014-2017.
- Presented with the American Industrial Hygiene Association's (AIHA's) Outstanding Group Contributor Award in 2013.
- Presented with the American Industrial Hygiene Association's (AIHA's) Outstanding Individual Contributor Award in 2010.
- Presented an Outstanding Poster Award, Occupational and Environmental Exposure of the Skin to Chemicals Conference (OEEC) 2007, Golden, Colorado, for "A Screening Method for Prioritizing Dermal Exposure Concerns Within the AIHA Strategy for Assessing and Managing Occupational Exposures".
- Awarded an EPA Bronze Medal in 2002 for work on a Design for Environment project to help businesses improve environmental and occupational safety and health conditions in auto refinishing shops nationwide.
- Awarded two EPA Bronze Medals in 2001 for significant contributions to a project to control safety and health concerns related to the use of acrylamide products and for significant contributions to the EPA Counter-Terrorism Taskforce.
- Awarded a 1996 Semiconductor Safety Association (SSA) national scholarship for graduate study and research in Industrial Hygiene. Resulting research was published in the Semiconductor Safety Association Journal.
- Awarded two National Institute for Occupational Safety and Health (NIOSH) Training Grants (1995 and 1996) for graduate study in industrial hygiene.

Professional Associations

American Industrial Hygiene Association (AIHA), Full Member

American Conference of Governmental Industrial Hygienists (ACGIH), Full Member

International Society for Exposure Science (ISES), Full Member

Society of Toxicology (SOT), Full Member

Society for Risk Analysis (SRA), Full Member

Science Advisory Groups

Co-Chair, National Institute for Occupational Safety and Health (NIOSH)-facilitated National Occupational Research Agenda (NORA) Cross-Sector Council for Immune, Infectious, and Dermal Disease. NORA is a partnership program to stimulate innovative research and improved workplace practices. Diverse parties collaborate to identify the most critical issues in workplace safety and health and then make progress on those issues through information sharing, collaboration, and enhancing dissemination and implementation of evidence-based practices. 2016 – present.

Subject Expert Workgroup Member, NIOSH Expert Workgroup on Skin Notations and Dermal Exposure Issues. This expert working group was a collaborative effort between NIOSH scientists and external subject matter experts in the fields of toxicology, industrial hygiene, occupational medicine, epidemiology and dermatology to address scientific issues associated with the assignment of hazard-specific skin notations, 2005 - 2009.

Member, International Standards Organization (ISO) Technical Committee 146, Subcommittee 2, Workgroup 8, Air Quality – Workplace Atmospheres – Assessment of Contamination of Skin and Surfaces from Airborne Chemicals, 2006 - present. The primary objectives of this workgroup are to harmonize dermal exposure assessment terminology and to provide internationally standardized tools to assess dermal exposure. The group works closely with the European Committee for Standardization (CEN) TC137 WG6 (Assessment of Workplace Exposure to Chemical and Biological Agents – Dermal Exposure).

Professional Experience

Insight Exposure and Risk Sciences, Inc. (2017 – present)

- Perform human health exposure and risk assessments for clients related to a number of different agents in a variety of scenarios, including for occupational, consumer, and public exposures.

Insight Risk (2018 – 2019)

- Managing Principal Scientist dedicated to addressing scientifically complex and technical questions related to human health and safety, including exposure and risk assessment.

- Specialized in addressing the disciplines of industrial hygiene, exposure science, occupational and consumer exposure assessment, and exposure reconstruction.

Cardno ChemRisk, LLC (2007 – 2017)

- Evaluated take home and bystander asbestos exposure potential associated with the use of encapsulated chrysotile-containing products.
- Conducted a risk assessment for alternative abrasive blasting agents using recycled materials. Also conducted a warnings and MSDS evaluation for abrasive blasting agents and conducted a risk assessment comparison between alternative and traditional silica-based abrasive blasting agents.
- Conducted a large ongoing risk assessment for a chemical company that involves detailed negotiations with a state environmental agency to achieve a mutually agreeable risk management plan.
- Conducted a risk assessment for dermal exposures to chemicals in water and soil for a large construction project in Toronto, Canada.
- Conducted a Proposition 65 risk assessment to evaluate the potential health risks associated with the use of a non-prescription cosmetic fade cream containing hydroquinone. Modeled dermal uptake based on expected use of the product.
- Conducted an assessment of bystander exposures to the use and manipulation of asbestos containing products in steel mills.
- Conducted an exposure assessment for the occupational use of a new chemical not listed previously on the TSCA inventory. Provided recommendations for safe use and disposal of the chemical.
- Conducted a Proposition 65 assessment of the potential for exposure to phthalates in a kitchen utensil. Assessed dermal and potential ingestion exposure potential for both adults and children.
- Conducted a comprehensive analysis of personal and area benzene exposures at a large chemical plant over a 40-year period. Developed a formal retrospective exposure assessment by division, department, and job title for the entire facility. Used statistical techniques and Bayesian Decision analysis to generate exposure values. Also provided individual exposure estimates where applicable as well as detailed information on facility corporate conduct.

- Conducted a Proposition 65 assessment of a consumer product mechanical gauge composed of brass with chrome plating to determine the potential for dermal, hand to mouth, or ingestion exposure to lead in the chrome.
- Conducted a Proposition 65 assessment of a consumer product packaging containing cadmium in the label. Determined the potential for dermal, hand to mouth, or ingestion exposure to cadmium in the package label.
- Evaluated airborne asbestos exposures associated with multiple scenarios, including auto repair, exposures to gaskets and packing, bystander exposure during a wide variety of tasks, and during television repair.
- Conducted an exposure assessment associated with the presence of benzene in construction products, including framing adhesives. Assessed the potential for both dermal and inhalation exposures to benzene through consumer and occupational use of the products.
- Conducted a risk assessment to assess compliance with Proposition 65 and the California Safe Cosmetics Act for a cosmetic fingernail adhesive product. The comprehensive risk assessment included estimates of daily exposure associated with both consumer and occupational uses of the product via the inhalation, dermal, and ingestion routes of exposure.
- Conducted an exposure reconstruction for benzene exposure at multiple chemical plants and petrochemical refineries associated with pipefitting and repair work.
- Conducted a comprehensive exposure assessment for occupational exposures to benzene in spray paint products. Used product information, published literature, and exposure data to develop exposure estimates for benzene associated with specific occupational scenarios.
- Conducted an exposure analysis of vinyl chloride in consumer products. Developed a detailed modeling assessment of exposures for a variety of specific use scenarios. Applied both transient two-zone and steady state models, as well as Monte Carlo sensitivity analysis techniques.
- Conducted California Proposition 65 and Consumer Product Safety Commission health risk assessments for multiple types of jewelry products manufactured from different types of materials, including metal and nonmetal components. Estimated the total potential bodily dose of lead based on contact with selected products via dermal absorption, hand to mouth exposure, mouthing (oral) exposure and ingestion for both adults and children. Evaluated laboratory standards and results from testing conducted using Prop 65, Consumer Product Safety Commission (CPSC), and Health Canada

standards. Determined both total and soluble/accessible lead content in the products, and employed modeling techniques to determine cumulative exposure potential.

- Conducted a simulation study to assess airborne exposures to carbon monoxide during recreational vehicle use, including quantification of exposure zones, determination of exposure gradients and decay, and evaluation of multiple use scenarios.
- Evaluated dermal and inhalation exposures to solvent-based paints and coatings associated with pipe repair and other industrial applications.
- Evaluated the potential for mercury exposure associated with manometers used in natural gas pipe repair and installation.
- Evaluated the potential for occupational exposures to boiler water treatments at an industrial facility.

U.S. Department of the Interior, National Park Service (2003 – 2007)

- Conducted exposure assessments and personal exposure monitoring for the Intermountain Region of the National Park Service. Conducted comprehensive evaluations for carbon monoxide exposures for employees in boating operations, noise exposures during heavy equipment operation and shop work, silica exposures during generator-powered rock-drilling, diesel exposures in high vehicle traffic areas, wood dust exposures during carpentry and trails work, arsenic exposures during work in former mining areas, and indoor air quality.
- Developed a medical monitoring program for arsenic for the Intermountain Region. Defined the program requirements, communicated them with regional personnel, and analyzed all biological monitoring data obtained to ensure compliance with the program.
- Developed a database to track comprehensive exposure assessment information for all Intermountain Regional activities and work tasks for the National Park Service. Database parameters included monitoring data, modeling results, and qualitative assessment information.
- Managed the Intermountain Regional safety and health program for 89 parks and over 5,400 employees and volunteers for the National Park Service. Conducted technical safety and health program management evaluations, including safety and health field site visits. Reduced total employee injuries and illnesses in the region by 20% from 2005 to 2007, allowing for an estimated regional cost savings of over \$600,000. Guided specific safety management systems in the region, including top management safety

leadership and direction, safety accountability systems, audit systems, hazard control planning, and incident investigation.

- Initiated an Intermountain Regional safety newsletter and periodic conference call program to interact regularly with all park Collateral-Duty Safety Officers and to provide important safety information and updates on program priorities. Developed and presented service-wide National Park Service training in satellite television format on Personal Protective Equipment in February 2005. Developed and presented Intermountain Regional training on a number of subjects, including Infectious Diseases, Ergonomics and OSHA Recordkeeping/Form 300 Requirements.

U.S. Environmental Protection Agency, Office of Pollution Prevention and Toxics (2000 – 2003)

- Conducted chemical-specific comprehensive exposure assessments for a wide range of substances, including acrylamide, brominated flame retardants, methyl tert-butyl ether (MTBE), perfluorooctane sulfonate (PFOS), and perfluorooctanoic acid (PFOA).
- Provided professional industrial hygiene and safety engineering expertise on a number of key national programs at the U.S. Environmental Protection Agency, including the Toxic Substances Control Act regulatory activities, High Production Volume Chemicals, International Screening Information Data Sets, Pollution Prevention, Green Engineering, Design for the Environment, the Voluntary Children's Chemical Evaluation Program (VCCEP) and others.
- Worked to evaluate and enhance many exposure assessment tools, models, and methodologies, including the Chemical Screening Tool for Exposures and Environmental Releases (ChemSTEER), generic scenarios for industry-specific workplace release and exposure estimation, and tiered exposure assessment guidelines.
- Developed and wrote policy and program guidelines on chemical exposure and safety issues, including respirator cartridge evaluation and testing, particulate exposures and evaluation, dermal exposure assessment and glove permeation evaluation, and engineering controls in the workplace.
- Served as joint manager of the New Chemical Exposure Limit (NCEL) investigation and compliance team, which developed strategies and executed inspections to ensure compliance with the inhalation exposure limit requirements for substances regulated under TSCA 5(e). Developed a comprehensive database to rate and prioritize substances with assigned NCEL values as potential inspection targets.
- Conducted frequent engineering assessments of new chemicals as part of the evaluation of substances for inclusion on the TSCA inventory list. Used modeling and other tools to conduct human exposure and environmental release assessments, providing in-depth

analysis and guidance where necessary. Participated in the TSCA regulatory process for certain substances with identified health risks. Employed requirements as necessary of such related regulations as CERCLA and RCRA as well as OSHA and National Institute of Occupational Safety and Health (NIOSH) guidelines and regulations.

- Served as the technical industrial hygiene liaison for the office to outside agencies, including OSHA, NIOSH, and the Mine Safety and Health Administration (MSHA) on occupational safety and human health issues.
- Provided industrial hygiene and exposure control expertise to the OPPT counter terrorism workgroup. Workgroup activities have included developing appropriate emergency protection and controls to be used with lists of specific TSCA chemicals with the potential to be used as terrorist weapons.

Comprehensive Health Services, Inc., NASA Goddard Space Flight Center (1996 – 2000)

- While working at NASA's Goddard Space Flight Center (GSFC), evaluated airborne and dermal chemical exposure concerns during semiconductor chip fabrication, space materials research, and use of rocket fuels. Assessed noise/vibration exposures during launch simulations. Also managed the Hearing Conservation, Respiratory Protection, Ergonomics, and Local Exhaust Ventilation Monitoring Programs. Developed, maintained, and provided training for occupational health programs. Prepared and collected information for use in Goddard Space Flight Center's application for certification under OSHA's Voluntary Protection Program.
- Created, managed, and maintained a large relational Microsoft Access database to organize and store all of Goddard Space Flight Center's Industrial Hygiene, Health Physics, Medical Monitoring, and Fitness Program data for over 4,000 employees.
- Participated on the GSFC Emergency Response Team, and prepared for and responded to site emergencies, including medical emergencies, chemical emergencies, and other safety emergency situations. Also responded to and evaluated non-emergency individual employee health complaints and issues and provided appropriate evaluation and follow-up.

FMC Corporation, Agricultural Products Division (1995 and 1996)

- While working at FMC's Agricultural Products Division, provided industrial hygiene support to a large agricultural chemical manufacturing plant. Conducted a wide variety of industrial hygiene activities, including air monitoring, respiratory protection fit testing, wipe sampling, monitoring with direct reading instruments, illumination intensity monitoring, noise monitoring, and laboratory sample analysis.

- Assisted in the development of industrial hygiene protocols for a new process plant under construction at the site, including conducting research on the necessary personal protective equipment, air sampling protocols, and emergency response procedures.
- Participated on the committee for Maryland Environment 2000 to evaluate and prioritize environmental issues for the state of Maryland.

Labor Occupational Health Program, University of California at Berkeley (1994-1996)

- Worked as an Industrial Hygiene Technical Assistant at the University of California at Berkeley's Labor Occupational Health Program (LOHP). Interfaced with project coordinators, union officials, health and safety professionals, and the public on many specific industrial hygiene issues, including workstation ergonomic design, chemical exposures, magnetic field exposure, occupational asthma, and bioaerosol exposures. Developed industrial hygiene training programs for use by the project coordinators on such subjects as glove and respirator education and use.

Professional Associations and Activities

Member, AIHA Exposure Assessment Strategies Committee, 2001-present.

Member, AIHA Risk Assessment Committee, 2017-present.

Full Member, American National Standards Institute (ANSI) Z88 Respiratory Protection and Standards Development Committee, 2000-2017.

Member, AIHA Engineering Committee, 2004-2009.

Instructor, American Industrial Hygiene conference and exposition (AIHce) and Professional Conference on Industrial Hygiene (PCIH) Professional Development Courses: Evaluation and Control of Dermal Exposures, 2003, 2005, 2006 and 2010, 2019

Instructor, AIHce Professional Development Course: Exposure Assessment Strategies and Statistics Professional Development Course, various years 2005-2019

Instructor, AIHce Professional Development Course: Mathematical Modeling for Occupational Exposure Assessment, 2008-2014.

Instructor, AIHce Professional Development Course: Professional Judgment in Industrial Hygiene, 2010-2014.

Advisory Board Member and Attendee, AIHA Future Leaders Institute, 2005 and 2008.

Chair, American Industrial Hygiene Association (AIHA) Exposure Assessment Strategies Committee, 2006. Oversaw publications, training, and other activities of a well-respected committee of safety and health professionals in developing best practices for safety and health exposure assessment methods, statistical evaluation, and modeling strategies. Served as Secretary in 2004 and Vice-Chair in 2005.

Founder and Chair, AIHA Exposure Assessment Strategies Committee, Subcommittee for Dermal Exposure Assessment, 2001-2005. Subcommittee member, 2001- present.

Conference Co-Chair, Occupational and Environmental Exposures of the Skin to Chemicals (OEESC) Conference 2007, held June 17-20, 2007 in Golden, CO. Biennial conference of occupational and environmental health professionals, dermatologists, policy-makers and others to help address the science, knowledge gaps, future challenges, and policy opportunities related to occupational and environmental exposures of the skin to chemicals. OEESC 2007 followed previous successful conferences in Washington, DC in 2002 and Stockholm, Sweden in 2005. Primary sponsors of the conference included the National Institute for Occupational Safety and Health (NIOSH), the U.S. Environmental Protection Agency (EPA), and the AIHA.

Publications

Burns, A.M., Barlow, C.A., Banducci, A.M., Unice, K.M., **J. Sahmel**. 2019. Potential Airborne Asbestos Exposure and Risk Associated with the Historical Use of Cosmetic Talcum Powder Products. *Risk. Anal.* Advance online publication, April 12, 2019. doi: 10.1111/risa.13312.

Avens, H.J., J.R. Maskrey, A.L. Insley, K.M. Unice, R.C.D. Reid, **J. Sahmel**. 2018. Characterization of airborne BTEX exposures during use of lawnmowers and trimmers. *Arch. Env Occup Health.* Advance online publication, Jan. 10, 2018. doi: 10.1080/19338244.2018.1426552.

Glynn, M.E., K.A. Keeton, S.H. Gaffney, and **J. Sahmel**. 2018. Ambient asbestos fiber concentrations and long-term trends in pleural mesothelioma incidence between urban and rural areas in the United States (1973-2012). *Risk Anal.* 38(3):454-471.

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Expert Report of
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In the matter of LaFrentz
August 14, 2020

Attachment B

General Reference List

General Asbestos Reference List

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General Asbestos Reference List

March 5, 2020

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Case Name	City/County, State	Topic	Deposition Date	Trial Testimony Date
Arthur Robert Stirrat, Plaintiff, vs. A.W. Chesterton Company et al. Defendants (regarding Sequoia Ventures, Inc.)	Los Angeles, California	Asbestos	8/22/2016	
Linda E. Colpitts and Michael Colpitts, vs. American International Industries, et al. (regarding Imerys Talc America)	Los Angeles, California	Talc (Asbestos)	8/23/2016	
Charles & Kathleen Holley vs. Ford Motor Company, et al.	Beaufort County, South Carolina	Solvents (Benzene)	8/25/2016	
Philip John Depoian and Julie Pastor Depoian vs. American International Industries Inc., et al. (regarding Colgate-Palmolive)	Los Angeles, California	Talc (Asbestos)	8/30/2016	
Richard Hurvitz and Carole Hurvitz vs. Pneumo Abex Corporation, et al. (regarding Lone Star Industries, Inc.)	Los Angeles, California	Asbestos	9/6/2016 & 11/15/2016	
Melvin Jones vs. Borgwarner Morse TEC LLC, et al. (regarding Shell)	Los Angeles, California	Asbestos	9/16/2016	
James Brown vs. Union Pacific Railroad Company	Madison County, Illinois	Creosote/Solvents		9/26/2016
Doris Jackson vs. Colgate-Palmolive Company (regarding Colgate-Palmolive)	District of Columbia	Talc (Asbestos)	10/4/2016	
Anna Blount vs. Colgate-Palmolive Company, et al. (regarding Colgate-Palmolive)	Los Angeles, California	Talc (Asbestos)	10/12/2016	11/18/2016
Karen S. Foster vs. Alcatel-Lucent USA Inc., et al; Debra and John Ehrenreiter vs. ABB, Inc., et al.; David and Se Young Sewell vs. ABB, Inc., et al. (regarding Colgate-Palmolive)	Madison County, Illinois	Talc (Asbestos)	10/17/2016	
Mary Lyons vs. Metropolitan Life Insurance (regarding Colgate-Palmolive and Cyprus Amax)	San Francisco County, California	Talc (Asbestos)	11/29/2016	
Judith Gullicksen vs. Basco Drywall & Painting Co., et al. (regarding Colgate-Palmolive)	Alameda County, California	Talc (Asbestos)	12/8/2016	
Judith Macias vs. C.H. Murphy/Clark-Ullman, Inc., et al. (regarding Ferro Engineering)	King County, Washington	State of Knowledge	12/15/2016	
Donald Johnson vs. Motiva Enterprises, LLC, Equilon Enterprises, LLC, Riverbend Shell Inc., and Diane Williams	Parish of New Orleans, Louisiana	Gasoline	1/26/2017	2/16/2017
Dennis John Zampa and Pamela S. Zampa vs. Georgia-Pacific LLC, et al.	Alameda County, California	Asbestos	2/27/2017	
Debra J. Greene vs. Union Carbide Corporation et al.; Donna L. Rutherford, Co-Personal Representative of the Estate of Elma Link et al. vs. Union Carbide et al. (regarding Colgate-Palmolive)	Baltimore City, MD	Talc (Asbestos)	4/6/2017	
David Lamar Taylor and Deborah Williford Taylor vs. 3M Company f/k/a Minnesota Mining and Manufacturing, et al. (regarding Fisher Controls International LLC)	Richland County, South Carolina	Asbestos	4/17/2017	
Beverly Dale Jolly and Brenda Rice Jolly vs. General Electric Company, et al. (regarding Fisher Controls International LLC)	Richland County, South Carolina	Asbestos	4/17/2017	
Louie Cervantes and Lupe Cervantes, Plaintiffs, vs. A.W. Chesterton Company, et al., Defendants (regarding CalPortland and Amcord)	Los Angeles, California	Asbestos	5/5/2017	
Janet Shaw, Individually and as Successor-in-Interest to Walter Shaw, deceased, Victoria Newsham, and Kerry Shaw vs. Amcord, Inc. et al.	Alameda County, California	Asbestos	5/11/2017	
Robert Harris Bailey vs. 3M Company f/k/a Minnesota Mining and Manufacturing Company, et al. (regarding Ferro Engineering)	Cuyahoga County, OH	State of Knowledge	5/22/2017	
Sharon M. Hanson and Douglas B. Hanson, Pltfs. vs. Colgate-Palmolive Company, et al. (regarding Colgate-Palmolive and Cyprus Amax)	Southern District of Georgia (Federal)	Talc (Asbestos)	6/22/2017	
Beverly Dale Jolly and Brenda Rice Jolly vs. General Electric Company, et al. (regarding Crosby Valve, Inc.)	Richland County, South Carolina	Asbestos	7/11/2017	8/1/2017-8/2/2017
Laina Jewel Bartlow and Kenneth David Bartlow v Brenntag North America et al.; Carol Schoeniger v Brenntag North America et al. (regarding Colgate-Palmolive, Imerys Talc America, and Cyprus Amax)	Middlesex County, New Jersey	Talc (Asbestos)	7/13/2017 & 7/27/2017	
Barbara and John Wittman vs. Brenntag North America, Inc. (regarding Colgate-Palmolive, Cyprus Amax, and Pfizer)	Los Angeles, California	Talc (Asbestos)	8/10/2017	
Marie Colette Gonzales, individually and as successor-in-interest to Jesse Gonzales, deceased, et al. vs. 3M Company, et al. (regarding Shell)	Los Angeles, California	Asbestos	8/21/2017	
Richard Booker and Cheryl Booker vs. BASF Catalysts LLC, et al. (regarding Pfizer)	County of Alameda, California	Talc (Asbestos)	8/29/2017	

Tina Herford vs. AT&T Corp., et al. (regarding Cyprus Amax)	Los Angeles, California	Talc (Asbestos)	9/5/2017	11/7/2017- 11/8/2017
Susan E. Jenkins vs. Avon Products, Inc., et al. (regarding Cyprus Amax and Imerys Talc America)	San Diego, CA	Talc (Asbestos)	9/11/2017	
Salazar, Dorothy (WD: Joe C. Salazar) vs. Amcord, Inc., et al. (regarding CalPortland, Amcord, and Mission Stucco)	Los Angeles, California	Asbestos	9/15/2017	
Dale Chapp, Individually and as Personal Representative of The Estate of Ruth Chapp, Deceased, Pltf. vs. Borg-Warner Morse Tec LLC, etc., et al. (regarding Colgate-Palmolive and Cyprus Amax)	Milwaukee, Wisconsin	Talc (Asbestos)	10/2/2017	
Rae Ann Stevenson et al., vs. MCIC, et al. (regarding Colgate-Palmolive)	Washington County, MD	Talc (Asbestos)	10/11/2017	
Richard Abeysa, individually and as Personal Representative of the Estate of Frank Joe Abeysa, deceased, et al. vs. A&A Building Material Co., et al. (regarding Colgate-Palmolive and Imerys Talc America)	Los Angeles, California	Talc (Asbestos)	10/12/2017	
Christopher Lightfoot vs. Georgia-Pacific Wood Products, LLC, et al. (regarding Georgia-Pacific Wood Products)	Eastern District of North Carolina	Wood Dust	10/17/2017	
Wesley J. Quisenberry, Personal Representative of the Estate of Wanda J. Quisenberry, deceased vs. Borgwarner Morese Tec Inc., et al. (regarding Huntington Ingalls Incorporated)	Newport News, Virginia	State of Knowledge	10/19/2017	
Julia Goo v. Arcon, Inc., et al. (regarding Golden Gate Drywall)	Alameda County, California	Asbestos	10/23/2017	
Hinda Bartoli, individually and as successor in interest to Ronald Bartoli, deceased, Roseanna Bartoli, an individual; Dino Bartoli, an individual, vs. BorgWarner Morse TEC LLC, et al. (regarding BorgWarner Morse TEC)	Los Angeles, California	Asbestos	11/9/2017	
William S. Aby, Sr. and Cynthia R. Aby vs. Allied Packing & Supply Company, et al. (regarding BorgWarner Morse TEC)	Alameda County, California	Asbestos	11/15/2017	
Ann Patrice Gibbons and James Randall Gibbons vs. Axia Acquisition Corporation (regarding Pfizer)	Los Angeles, California	Talc (Asbestos)	11/28/2017	
James Logan and Kathleen Logan, v. Honeywell International Inc., fka Allied Signal, Inc., as successor-in-interest to the Bendix Corporation et al. (regarding BorgWarner Morse TEC LLC)	Alameda County, California	Asbestos	12/8/2017	
Angel D. Rigor vs. 3M Company a/k/a Minnesota Mining & Manufacturing Company, et al. (regarding BorgWarner Morse TEC LLC)	Alameda County, California	Asbestos	12/20/2017	
Harvey Kohr, Special Administrator of the Estate of Helene Kohr, Deceased, vs. Brenntag North America, Inc. et al. (regarding Colgate-Palmolive, Cyprus Amax, and Pfizer)	Cook County, IL	Talc (Asbestos)	1/10/2018	
James E. Parrott, vs. Adience, Inc., et al. (regarding Ferro Engineering)	Wayne County, MI	State of Knowledge	2/8/2018	3/13/2018
Richard Berg and Made Berg vs. Alta Building Material Co., et al. (regarding Colgate-Palmolive Co., as a successor in interest to The Mennen Company)	Alameda County, California	Talc (Asbestos)	3/5/2018	
Irene Delacruz and Julius Delacruz, Plaintiffs, vs. Brenntag North America, Inc., et al.; Carolyn Weirick and Elvira Graciela Escudero Lora vs. Brenntag North America, Inc., et al. (regarding Imerys Talc America and Cyprus Amax Minerals Company)	Los Angeles, California	Talc (Asbestos)	4/10/2018	9/11/2018- 9/12/2018
Ilene Brick vs. Brenntag North America, Inc., et al. (regarding Imerys Talc America and Cyprus Amax Minerals Company)	Los Angeles, California	Talc (Asbestos)	4/24/2018	6/7/2018
Nancy Cabibi and Phil Cabibi vs. Avon Products, Inc., et al. (regarding Colgate-Palmolive Co. and Imerys Talc America)	Los Angeles, California	Talc (Asbestos)	4/26/2018	
Paula M. Garcia vs. Colgate-Palmolive Company, et. al. (regarding Colgate-Palmolive Co. and Imerys Talc America)	Los Angeles, California	Talc (Asbestos)	5/24/2018	
Michael Coons, individually and as Successor-in-Interest to Cynthia L. Coons, Deceased, Holly Coons, Individually, vs. 3M Company (f/k/a Minnesota Mining and Manufacturing), et al. (regarding BorgWarner Morse TEC Inc.)	Los Angeles, California	Asbestos	6/1/2018	
Jason Fleischer and Maria Graham, his wife, vs. ARC Roofing Corporation et al. (regarding ARC Roofing Corporation)	Mercer County, New Jersey	Roofing Adhesive	6/27/2018	
Kirk Von Salzen and Janet Von Salzen vs. American International Industries, Inc., et al. (regarding Imerys Talc America)	Los Angeles, California	Talc (Asbestos)	7/12/2018	
Robert J. O'Donnell and Sandra O'Donnell v. W.F. Taylor Co., Inc. et al. (regarding Armstrong, Roberts, and WM Barr)	Palm Beach County, Florida	Solvents (Benzene)	7/17/2018	

Dwaine T. Waters and Janice K. Waters, vs. Agco Corporation, et al. (regarding Colgate-Palmolive)	Richland County, South Carolina	Talc (Asbestos)	9/5/2018	
Melissa Hale, as Successor-in-Interest to and as Wrongful Death Heir of Kimberlee Hunter, deceased; and Jennylyn Henderson, et al. vs. Ford Motor Company, et al. (regarding Honeywell International Inc. (Bendix) and BorgWarner Morse TEC, Inc.)	Solano County, CA	Asbestos	9/7/2018	
Carla Allen vs. Brenntag North America, Inc., et al. (regarding Colgate-Palmolive)	Humboldt County, CA	Talc (Asbestos)	9/13/2018	10/30/2018
Patrick M. O'Reilly and Joan O'Reilly v. Air & Liquid Systems Corp. et al. (regarding Crane Co.)	Cook County, IL	Asbestos	9/20/2018	
Cynthia Hayes, as Executrix of the Estate of Donna Ann Hayes v. Colgate-Palmolive Company, et al. (regarding Colgate-Palmolive)	Jefferson County, KY	Talc (Asbestos)	10/9/2018	
Cleon Nolan Edwards, Individually and as Personal Representative of the Estate of Dianne S. Edwards, Deceased, and on behalf of all Wrongful Death Beneficiaries v. ABB, Inc., et al. (regarding Crosby Valve, LLC)	Pulaski County, AR	Asbestos	10/18/2018	
Jesse Henson as Power of Attorney for Dianne Henson vs. Allied Manufacturing Co., et al. (regarding Colgate-Palmolive)	Jackson County, MO	Talc (Asbestos)	11/30/2018	
Sharon Pipes and spouse Andrew Slupski vs. American Honda Motor Co., Inc., et al. (regarding Colgate-Palmolive Co., Imerys Talc America, and Cyprus Amax Minerals Co.)	Oklahoma County, OK	Talc (Asbestos)	12/11/2018	
SANDRA REYES JAUREGUI and MARIO REYES JAUREGUI vs. Ford Motor Company, et al. (Regarding BorgWarner Morse TEC Inc.)	Los Angeles, California	Asbestos	1/7/2019	
Marilyn A. Gardner, Individually and as Personal Representative of the Estate of Lester D. Gardner, Deceased, Plaintiffs, vs. ABB INC., et al. (Regarding Joy Global Surface Mining Inc. f/k/a P&H Mining Equipment Inc. f/k/a Harnischfeger Corp.)	Pierce County, Washington	Asbestos	2/6/2019	4/25/2019, 5/2/2019
George and Frances Hogue v. Allied Packing & Supply, Inc., et al. (regarding BorgWarner)	Alameda County, California	Asbestos	2/12/2019	
Dean Rninger, Individually and as Executor of the Estate of JoAnne Rninger, deceased vs. Hollingsworth & Vose Company, et al. (regarding Colgate-Palmolive Co.)	Summit County, Ohio	Talc (Asbestos)	2/13/2019	
Jody E. Ratcliff vs. American Honda Motor Co. Inc., et al. (regarding Imerys Talc America and Cyprus Amax Minerals Company)	King County, Washington	Talc (Asbestos)	2/26/2019	
Jamie Connor, Individually and as Executrix to the Estate of Matthew Janke and William Janke, Plaintiff(s) vs. 3M Company, et al. (regarding Honeywell International Inc. (Bendix) and BorgWarner Morse TEC, Inc.)	Middlesex County, New Jersey	Asbestos	3/12/2019	
Patricia Schmitz vs. Johnson & Johnson, et al. (regarding Colgate-Palmolive Co.)	Alameda County, California	Talc (Asbestos)	3/20/2019	5/14/2019-5/16/2019
KEVIN KORTE, as Personal Representative of the Wrongful Death Estate of RODOLFO GUTIERREZ, Deceased, and STELLA GUTIERREZ v. Burn Construction Company, Inc. (regarding Baker Hughes)	Santa Fe County, New Mexico	Asbestos	4/3/2019	7/25/2019
James Coleman Sizemore, as Personal Representative of the Estate of James Calvin Sizemore v. Bowater Paper Mill, et al. (regarding Crosby Valve)	Hampton County, South Carolina	Asbestos	4/30/2019	
Sebastian Bretado vs. 3M Company, et al. (regarding BorgWarner Morse TEC LLC)	Los Angeles, California	Asbestos	7/15/2019	
Jeanie McCrystal vs. Autozone Inc., et al. (regarding Honeywell International Inc. (Bendix))	Daviess County, Kentucky	Asbestos	7/16/2019	
Michael Charles Bell, et al. v. BorgWarner Morse Tec, Inc., et al. (regarding Honeywell International Inc. (Bendix); BorgWarner Morse TEC LLC as Successor-by-Merger to Borg-Warner Corporation; and Koons Chevrolet)	Baltimore City, MD	Asbestos	7/23/2019	
Diane Shoemaker French, as the Personal Representative of the Estate of Bobby Shoemaker, Deceased (regarding Premix-Marblelite Manufacturing Co.)	Broward County, FL	Asbestos	8/29/2019	
Melody Lewis and Robert Lewis v. A.W. Chesterton Company, et al. (regarding Colgate-Palmolive Co.)	Marion County, IN	Talc (Asbestos)	9/4/2019	
Henry S. Fisher, IV, and Claire Fisher vs. Actuant Corporation, et al. (regarding Kelsey-Hayes, individually and as a successor-in-interest to Fruehauf; and Mack Trucks, Inc.)	Baltimore City, MD	Asbestos	9/9/2019	

Larry Cole Sr., Individually, and as Personal Representative of the Estate of Larry Nathaniel Cole, Deceased, Elaine Cole, Drake Cole, by and through his Next Friend, Betsy Cole, and Lennox Cole, by and through his Next Friend, Cristina Patten vs. Honeywell International, Inc., et al. (regarding Honeywell International Inc. (Bendix))	Morgan County, MO	Asbestos	9/10/2019	
PIFER, RICHARD ERNEST (Deceased), et al. v. Barretts Minerals Inc., et al. (regarding Irwin Industrial Tool)	Baltimore City, MD	Chalk	10/7/2019	
Larry D. Wille, Individually and as a Representative of All Wrongful Death Beneficiaries, Treva Wille, et al. vs. Authorized Motor Parts Corporation, et al. (regarding O'Reilly Auto Parts)	Cass County, MO	Asbestos	10/24/2019	
Eric Klopman-Baerselman, as Personal Representative for the Estate of Rudie Klopman-Baerselman, deceased, vs. Air & Liquid Systems Corp. et al. (regarding BorgWarner Morse TEC LLC as Successor-by-Merger to Borg-Warner Corporation and regarding Honeywell International Inc., as a successor in interest to Bendix)	Tacoma, WA	Asbestos	10/29/2019	
Lubertha McLeod vs. AT&T, et al. (regarding Colgate-Palmolive Co.)	New Orleans, LA	Talc (Asbestos)	11/5/2019	
John Grimes vs. CBS Corporation, et al. (regarding Crane Co.)	New York County, New York	Asbestos	11/22/2019	
Robert N. Levesque, Individually and as Successor-in-Interest to Anne J. Levesque, deceased; Susan Dolby; Donald Levesque; Kevin Levesque, Shawn Levesque and Robert M. Levesque vs. Colgate-Palmolive Company, et al. (regarding Colgate-Palmolive Co.)	Alameda County, California	Talc (Asbestos)	12/16/2019	
Carol A. Lebrecht vs. American International Industries, et al. (regarding Colgate-Palmolive Co.)	Los Angeles, California	Talc (Asbestos)	12/17/2019	
Alfred Burton vs. 3M Company, et al. (regarding 3M)	King County, Washington	Employer Responsibility	1/30/2020	
Adam M. Breakell vs. 3M CO., et al. (regarding Honeywell International Inc. (Bendix) and Kelsey-Hayes)	Fairfield at Bridgeport, Connecticut	Asbestos	3/11/2020	
Antonio Mada & Isabel Mada vs. 3M Company, et al. (regarding Cincinnati Incorporated)	Los Angeles, California	Asbestos	4/28/2020	
Melvin Butler and Louise Threse Butler, his wife, vs. Cemex Construction Materials Florida, LLC., et al. (regarding Premix-Marblelite Manufacturing Co.)	Broward County, FL	Asbestos	5/5/2020	
Connie Lee Fink and Robert Ray Fink vs. Air & Liquid Systems Corporation, et al. (regarding BorgWarner Morse TEC LLC as Successor-by-Merger to Borg-Warner Corporation and regarding Honeywell International Inc., as a successor in interest to Bendix)	Milwaukee, Wisconsin	Asbestos	6/24/2020	
Kerry D. Vinson and Linda G. Vinson vs. Armstrong International, Inc., et al. (regarding Fisher Controls International and Crosby Valve)	Middle District of North Carolina	Asbestos	7/23/2020	